

ZB# 91-29

Thomas Cuti

73-1-7

#91-29- Cuti, Thomas - area

Prelim.
Sept. 23, 1991

Public Hearing
Oct. 25, 1991
Notice to Sentinel
on 10/2/91. ✓

Need: ① Title
Report
② Deed.

Collect fee:

\$ ~~25.00~~
paid

Letters out on 10/16/91.

Adjourned to
Nov. 25th pending
~~Need~~ accurate
Survey &
new notice of
Denial

November 25, 1991
Area Variances
Granted

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, N. Y. 12550

General Receipt

12394

Dec 19 19 91

Received of

Thomas Crite

\$ 25.00

Twenty-five

00

DOLLARS

For

ZBA Application Dec #91-290

DISTRIBUTION:

FUND	CODE	AMOUNT
CP 2453		25.00

By

Pauline M. Townsend

Town Clerk

Title

cc: *Ap*
file

NEW WINDSOR ZONING BOARD OF APPEALS

-----X

In the Matter of the Application of
THOMAS CUTI

DECISION GRANTING
AREA VARIANCES

#91-29.

-----X

WHEREAS, THOMAS CUTI, 510 MacNary Road, New Windsor, N.Y. 12553, has made application before the Zoning Board of Appeals for (1) 6.9 ft. side yard variance for existing pool and pool deck, (2) 3.3 ft. rear yard variance for existing pool, and (3) 3.8 ft. rear yard variance for existing deck which is attached to residential dwelling in order to obtain a certificate of compliance on property located at the above address in a R-4; and

WHEREAS, a public hearing was held on the 28th day of October, 1991 and adjourned to, and continued on the 25th day of November, 1991, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicant, THOMAS CUTI, appeared in behalf of himself and spoke in support of the application; and

WHEREAS, there were two (2) spectators present, Ms. Lidia Buer and Mr. Joseph Buer who reside at 504 MacNary Lane, New Windsor, N. Y. who spoke at the public hearing but did not oppose the application ; and

WHEREAS, the application was unopposed; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the provisions of the bulk regulations pertaining to side yard and rear yard (existing pool and pool deck), and rear yard (existing deck attached to residence) in order to obtain a certificate of occupancy in an R-4 zone.

3. The evidence presented by applicant substantiated the fact that a variance for less than the allowable side yard and rear yards would be required in order for applicant to obtain a certificate of compliance for the existing improvements or the subject property (except for the existing metal shed, which will be removed by the applicant and thus has been withdrawn from the

instant application) which otherwise would conform to the bulk regulations in the R-4 zone.

4. The evidence presented by the applicant indicated that the side yard and rear yard variances requested by applicant are necessary since this subdivision was granted approval by the Planning Board in 1972 for lots which were approximately only 100 x 100 in size, and thus leaves little space in which decks and a pool can be located in conformance with the bulk regulations.

5. The evidence presented by the applicant indicated that it would be economically unfeasible to locate the pool and pool deck on another portion of the property since the area where the pool and pool deck are placed is the only level portion of the property and to place the pool and pool deck at another location would only create the same insufficiencies, cost a considerable amount of money for fill and grading and would force applicant to cut down a cluster of trees in the middle of the parcel.

6. The evidence presented by the applicant further indicated that the deck attached to the residence could not feasibly be located elsewhere, either in the front or on the side of the house without requiring a variance of the same or greater magnitude. The variance requested for rear yard is the minimal variance required for a deck of practical size.

7. The evidence presented by applicant also indicated that construction of a smaller residential deck would not be economically feasible since it would be the size of a balcony and would not be large enough to be utilized by the family as a deck, and it would diminish, rather than enhance, the value of the property.

8. The evidence presented by applicant indicated that the metal shed, which was on the original survey, and which would also require a variance, would be removed entirely by the applicant, and the variance request, therefore, was withdrawn by the applicant. Thus, this Board has not considered any variance request for the existing metal shed and no variance is granted with respect thereto.

9. It is the findings of this Board that the applicant has indicated that he would suffer significant economic injury from the strict application of the bulk regulations to his lot since the pool and pool deck could not be economically constructed at another location on the lot and the deck attached to the residence could not be economically constructed in conformity with the bulk regulations, since it would have to be a grossly undersize deck, or if constructed in its present minimal practical size, would still require a variance of the same magnitude.

10. It is the finding of this Board that the applicant has

made a sufficient showing of practical difficulty, entitling him to the requested area variances.

11. The requested variances are not substantial in relation to the bulk regulations for side yard and rear yards given the small lot size and the practical difficulty in locating the pool, pool deck and deck attached to the residence elsewhere on the small lot.

12. The requested variances will not result in substantial detriment to adjoining properties nor change the character of the neighborhood since the improvements for which variances requested have been in existence since 1978.

13. The requested variance will produce no effect on the population density or governmental facilities.

14. There is no other feasible method available to applicant which can produce the necessary results other than the variance procedure.

15. The interest of justice would be served by allowing the granting of the requested variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT (1) 6.9 ft. side yard variance for existing pool and pool deck, (2) 3.3 ft. rear yard variance for existing pool, and (3) 3.8 ft. rear yard variance for deck which is attached to residence, in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

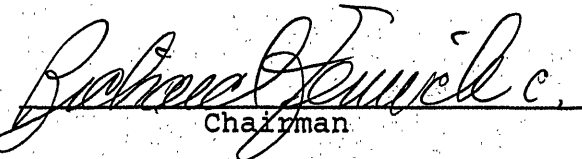
RESOLVED, that the Zoning Board of Appeals takes no action on the applicant's request for a variance on the metal shed since the applicant withdrew his variance request thereon and stated that the said metal shed would be removed from the property.

AND, BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: January 13, 1992.

(ZBA buDISK#7-053085.FD)


Chairman

PUBLIC HEARING - CUTI, THOMAS

MR. FENWICK: This is a public hearing adjourned from 10/28/91 pending receipt of new notice of denial from Mike.

Mr. Thomas Cuti came before the Board representing this proposal.

MR. FENWICK: Did you get that new notice of denial from Mike?

MR. CUTI: Didn't say we needed a new notice of denial, just told me I had to bring in the new survey. It's exactly the same as the old survey which stated it was filed with Heritage Savings Bank which was the original bank for the mortgage and the new survey is exactly the same.

MR. TORLEY: What does that make the distances?

MR. CUTI: Well, both identical to what you have on the thing there but it makes the distance from the deck to the property line 35 feet 2 inches.

MR. FENWICK: Pool is no longer on the line?

MR. CUTI: Pool happens to be 6 feet 6 inches which is away from the line.

MR. FENWICK: What do we have here?

MR. CUTI: Looks like 3.1 which is a little over 3 feet.

MR. LUCIA: It made a rather dramatic difference from the numbers we had at the first public hearing, the pool was originally right on the property line.

MR. CUTI: According to the original survey, that was all really unnecessary.

MR. BABCOCK: Can I have a copy of that?

MR. CUTI: You can keep that one because --

MR. TORLEY: We still need the variance for the deck.

MR. FENWICK: Have you been in touch with your attorney?

MR. CUTI: Excuse me?

MR. FENWICK: Have you been in touch with your attorney?

MR. CUTI: Yes, the last thing she told me was that your attorney told us he didn't have the power to right a letter and the Board voted four to one against him writing a letter. That's the last thing she spoke to me about and you also said that there was a big misunderstanding. I happened to be there.

MR. LUCIA: I think the letter speaks for itself.

MR. CUTI: First of all, the first one he wrote that's what he told us he didn't have the power, that's the last time I spoke that he didn't have the power to write a letter.

MR. TORLEY: I think she's got you mixed up with somebody else like Cornwall.

MR. CUTI: Your name is Dan, right or Don?

MR. LUCIA: That is correct.

MR. CUTI: I happened to be there when you called, that's why I know. I have the story straight this time.

MR. LUCIA: Well, the letter --

MR. CUTI: The first letter stated exactly what went on at the meeting and that's all.

MR. LUCIA: There was only one letter and that is my letter of October 30th, 1991. After she got it, she called me about it and had hoped it would be broader and I explained why I could not write a broader letter because the Board did not have sufficient information to act on your application of the first meeting. The letter went on to say that you need to engage a surveyor to make the computations, submit them to Mike so he can do a new notice of denial so this Board would

have something to act on.

MR. CUTI: Unfortunately, that was only completed Saturday.

MR. LUCIA: It's up to the Board, if you want Mike to do an amended notice of denial or want to adjourn the public hearing further. It has to be Mike's decision whether he can amend it right now.

MR. BABCOCK: I don't have the file with me but I'm sure we can, it's whatever the Board's pleasure is I can do it if you like.

MR. TORLEY: Let's move it along so the gentleman doesn't have to come back again.

MR. CUTI: I really won't bother coming back.

MR. FENWICK: Mike, are you going to get the file on this?

MR. BABCOCK: Do you have your file?

MRS. BARNHART: Yes, I have my file.

MR. BABCOCK: That's all we need, Mr. Chairman.

MRS. BARNHART: What do you need?

MR. BABCOCK: I can just tell you the numbers, I don't need anything.

MRS. BARNHART: We do have a record and the record is wrong so we don't, we should make it right, because then later on when you go back in the file years from now you look in and it's going to be the wrong figures.

MR. BABCOCK: I definitely agree with you.

MR. CUTI: The only thing that hurts it's the same exact survey.

MR. LUCIA: The property boundary is going to be the same, the offsets are what we are concerned about and you have come in with a survey that shows you need a smaller variance than what you were proposing last time. That is in your favor.

MR. FENWICK: Variance has to have numbers on it, it can't just say you have a variance and you walk.

MR. CUTI: If you would have explained to us right the first time, we wouldn't have went through that but actually the way we were told to write it up the first time is what caused the whole problem.

MR. FENWICK: I don't think so that night it was very clear.

MR. CUTI: I'm not talking about that night, I'm talking about the very first time when we applied for the variance.

MR. TORLEY: Do we have the proper number now?

MR. CUTI: That's how the thing got blown out all over the place, because we weren't given the right information to begin with.

MR. LUCIA: Do you have another copy of that?

MR. CUTI: Yes, cost you \$500 to hold it.

MR. NUGENT: Cost you.

MR. CUTI: I already paid for it.

MR. FENWICK: He's the last applicant that's under the line.

MR. LUCIA: Your survey says that metal shed is to be removed so we are not to consider the variance on the metal shed.

MR. CUTI: That was decided on the last time.

MR. FENWICK: Metal shed is going to be gone.

MR. LUCIA: Only variance are the wood deck and the above ground pool with the wood deck, is that correct?

MR. CUTI: Yeah, seems like I'm in a -- yeah.

MR. LUCIA: Is that correct?

MR. CUTI: Yes, that is what we decided on the last time.

MR. LUCIA: I want to make sure because the shed is still shown.

MR. CUTI: To make the drawing complete, he put it in the way it was.

MR. FENWICK: Fine.

MR. CUTI: Because I was afraid if something else would have been noted from the last time --

MR. BABCOCK: Side yard for the pool and deck required is 10 foot, he's providing 3.1 so he needs a side yard variance of 6.9. The other one, the rear yard he's required 10 foot for the pool he's got 6.7 feet and he needs a variance of 3.3. The rear yard for the deck that's attached to the house requirement is 40, he's got 36.2, so he needs a variance of 3.8. So, he's asking for two side yards or two rear yards and one side yard and the metal shed is out.

MR. FENWICK: Looks like the variance has been substantially cut down. I would say one of the big things was is it turns out your pool isn't on the property line because that was really going to be a problem. You have a C.O. for your house, don't you?

MR. CUTI: I doubt it, probably.

MR. TORLEY: Let's not get into that one.

MR. NUGENT: I would suggest that you get it.

MR. CUTI: Only time I get it is when --

MR. TORLEY: When was your house built?

MR. CUTI: 1975 and the subdivision was 1972 and there's all different laws that cover then.

MR. FENWICK: There were smaller lots. This is 100 by 100 lot.

MR. CUTI: If you go to Goshen, if you take the time to go to Goshen, shows the lots the way they were built

Variances required:
① Side yard 6.9'
② Pool 3.3'
③ Deck attached to house 3.8' rear yard

with less of the setback.

MR. FENWICK: Do we want to proceed with this, Members of the Board, are we going to proceed with this?

MR. NUGENT: Sure.

MR. FENWICK: Any question, anybody else want to see any of the literature we have in the file?

MR. NUGENT: No. We have been through it all.

MR. FENWICK: Everybody familiar with what the variances are going to be, variances that are requested?

MR. FINNEGAN: The variance for the pool is how many feet?

MRS. BARNHART: 6.9.

MR. FINNEGAN: Since that is an above ground pool, once that pool is in, can the next person still put that pool right there?

MR. FENWICK: Yes.

MR. FINNEGAN: Can we have a law where it's only good for this particular pool and the next owner of the next pool has to comply?

MRS. BARNHART: Run with the land.

MR. LUCIA: Well, that brings up something I was going to discuss later in the meeting. Starting July 1st, 1992, there's going to be entirely new Section 267 of the Town Law. At that point in time, Zoning Board of Appeals will have the power to condition variances such as you say for the existing life of this pool or for a certain number of years to allow landowners to amortize his investment. The legislature has already passed that. There's some discussion among people who are knowledgeable about planning and zoning matters that Board's could apply some of those standards now. The present law is if you gave a variance, it would last for the land and it would go forever so that pool would be replaced in its existing location. That is your decision.

MR. NUGENT: Didn't we have something similar to that when we used to give apartment to a mother and daughter type apartment as long as the principal owner lived there, they can have a tenant. We did that on several occasions.

MR. LUCIA: The old law those probably weren't legally sanctioned so they will be.

MR. BABCOCK: Just so you remember, not to many years ago, the Zoning Board of Appeals had the power to enact special permits and I think that is what you're talking about. Under special permit, you could.

MR. KONKOL: Special permits were taken away.

MR. BABCOCK: At the time of the special permit that is where you conditioned the applicant.

MR. KONKOL: We are always told when we granted a variance, we could put the restrictions.

MRS. BARNHART: We could and we did.

MR. FINNEGAN: There's no opposition here and I think --

MR. FENWICK: If there was then --

MR. TORLEY: I move we grant the appropriate variances.

MR. NUGENT: I'll second it.

ROLL CALL:

Mr. Torley	Aye
Mr. Finnegan	Aye
Mr. Nugent	Aye
Mr. Tanner	Aye
Mr. Konkol	Aye
Mr. Fenwick	Aye

MR. FENWICK: Do you need a letter or something?

MR. CUTI: It's a little late for that.

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MR. FENWICK: We can have a letter saying that it's in the works and it has passed but there's not a formal decision on it yet. Formal decision is formality but it is the written law that will be applied to your piece of property.

MR. CUTI: If there is one needed, I'll let my attorney speak to the Board's attorney.

MR. LUCIA: Okay.

MRS. BARNHART: You owe us \$25 application fee and you're the last one who got under the line before it was raised and these receipts are yours.

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PUBLIC HEARING: CUTI, THOMAS

MR. FENWICK: This is a request for (1) 8 foot 4 inch side yard variance for pool/deck and metal shed, and (2) 10 foot rear yard variance for pool and 14 foot 4 inch rear yard variance for deck located at 510 MacNary Road in an R-4 zone.

Mr. Thomas Cuti came before the Board representing this proposal.

MR. CUTI: Originally, when we put most of this up in 1978, which was about three years after we bought the house, basically we went by the original survey sheet that we got when we bought the property in 1975. We called for 50 feet behind the house with 25 actually 26 feet in front of the house and the 24 foot off the house is making up the 100 foot piece of property widthwise and of course, there's the 100 foot property lengthwise on one side of the house. I believe there's an extra 6 feet. According to this, it shows it was up front in the front of the property on one corner 106 feet. Where it is now, that can, we were told when we had to do this, do the diagram, a how to put it down on the property, then I was told we had to measure from the curb to the back of the house. Which everything is off according to what was originally done. That was all by the survey. Now, we were never given a new survey by the town. In fact, the town doesn't even have a survey on record in the office, neither does the county which I went crazy looking for again and I found the original, the bank had the copy around because my lawyer at the time had the other copy. And that's what kind of confused me so according to my drawings, that is how, I mean, that is how we are in the difficult position we are in right now.

And the other thing is now, well to remove the deck from the house is economic loss of over \$2,000 in that. To move the pool to within the other limits of the property and that is another thing with the pool, they, we originally put in the pool that was about the most level spot on the property to put it in. The only place where it wouldn't cost a fortune to level out the land. The other thing cause it's hard to see well on any of the diagrams but in the middle of the property, there was a big clump of trees that was left there

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during the excavation of the property, which the town didn't address at the time and which we did. We had to take and we had most of the neighbors had all the garbage cleared from the area that was left at the time. So, that's why the pool was put where it is now. The shed can be moved or taken down, whatever, that's of no great consequence. That can be moved if it had to be moved. We are just applying for the variance on that only because it's in a convenient spot. It's out of the way. It's really in the corner of the property. That's not, you know, not really bothering neither my neighbor on one side that the side that it's the neighbor whose side that it's bordering on, so that's that.

Again, getting back to the original question, my original question was when we originally applied for permits and not a variance but I guess permits and C.O.'s for most of the stuff, I guess the person in charge, I guess, the Town Engineer or whoever it was told us we didn't need any, that's why there's no existing C.O.'s or permits on this.

MR. FENWICK: Your wife said you were going to take the shed down.

MR. CUTI: More than likely, well, that's the original thing was if it created that much of a hassle, we were going to take it down. The shed has to be replaced. Like I said, the only reason that my lawyer left it on the variance was that if it got approved that would be the most convenient to leave the shed in. Like I said, it's underneath a tree that would cost a fortune to remove and that's about the only spot where, you know, it really is out of the way. That's that. I mean, it's like I said, that's of not great hardship because more than likely, that will be replaced. The only thing I'm looking for if I can keep it there that would be convenient if I could put up a new shed in that place, you know, but that's the only reason why it remained on the variance.

MR. FENWICK: So that you understand it has to be treated like there's nothing in your back yard right now so if you're telling us it's a hardship for you to take the pool down or anything else, we can't be looking at it that way. We have to look at it as if there's nothing there. I want to put the pool here,

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deck here and shed here. What are the good reasons why I want to put the pool and the deck and the shed, that's the why it had to be addressed basically. What's happened is everything you've got up there now is illegal so it has to be treated like it's not there.

MR. CUTI: It would be tough to put the deck on the house anywhere but the rear of the house. We could put it in the front of the house but it would look silly.

MR. FINNEGAN: That's the levellest spot where you have the pool right now.

MR. CUTI: Yes, which had to be that was 11 inches that had to be leveled 11 inches. Only other place, there's only one other place that's level that's about 2 foot away from the corner of the house and that would be to dig there or to put something there would be, I don't think would be, I don't even think it's even 2 feet away from the house, that's about the levellest spot and the reason that's level now is because after 16 years of fixing up the area that's who that got, you know, to that point.

MR. FENWICK: These are the questions I'm asking are for the record, they have to be. Your deck is in the rear of the house, that's the most convenient place to put it, it doesn't, it's not financially easy to put it anywhere else to make any sense?

MR. CUTI: No matter where you'd put it, you'd still be looking at the same variance, whether it's, well it comes off the kitchen, the deck comes from the back of the house, I mean from the kitchen to the back of the house.

MR. TANNER: So, you'd have to put new doors in?

MR. CUTI: I'd have to close the wall back up. If I put it in my bedroom, which is only, you know, 10 feet to the right of that, you're still looking at a variance for the back of the house. And the side of the house, there's nothing on the side of the house to put the deck on.

MR. FENWICK: You feel that the size of the deck that you have there if it were smaller would financially impact the cost of the house or the value of the house,

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would it make any sense to have it smaller than that?

MR. CUTI: If it got any smaller than 12 by 12, we'd be looking at a balcony just about. I don't think it would be worthwhile spending the money to redo it, to put something that small.

MR. FENWICK: We are not going to address that, like it's not there.

MR. CUTI: To put something that small on the house, you're not doing anything to enhance the cost of the, you know, the property, I mean the value of the property.

MR. LUCIA: Would you need a variance for any deck in the back yard?

MR. FENWICK: His house is only 40 feet from the property line.

MR. CUTI: The reason and that's the only reason we are really looking at the variance because the way the survey is changed because if the, see I mean the diagram I drew is far different from the diagram that the survey shows because the survey shows approximately, it shows 26 feet, it shows 26 feet from the front of the house, which leaves like 15 feet to the curb, okay, but the original survey shows 50 feet from the back of the house. The way they made me measure the house now is also no way that the, there's no way that there's 50 feet in the back of the house plus we were never informed that the survey was changed. So, obviously, we don't have this piece of property. We have the piece of property that's much different in shape and size and we never were notified, that's another thing. This was changed without me knowing. I'm here 16 years with this and this was done once in '75 when we bought the house and I believe they did it again afterwards because they put new stakes in. In fact, if the underbrush wasn't so bad in the back, you could probably find one of the stakes that's there in the back of the house but this was changed without us knowing. We were never notified that we weren't living on this piece of property anymore.

MR. FENWICK: Another thing that you mentioned was that the shed could be built legally.

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MR. CUTI: Yeah, probably could put it --

MR. FENWICK: What we have to achieve here, what we have to do is keep the variances to a minimum so if the minimum is you are going to move that shed and get it out of there and you can do that, that's what we'd like to see.

MR. CUTI: Basically, I think the only problem with the shed is that it's 3 feet from the neighbor's property line.

MR. TANNER: If you eliminate it, makes things a lot easier. I mean it's one less thing we have to take into consideration.

MR. CUTI: If it has to be eliminated, it has to be eliminated. Like I said, it was only left on there only if it could be granted that would be a convenient spot. If it has to be eliminated, it will be eliminated.

MR. NUGENT: Or moved.

MR. FENWICK: You said you were going to take it down anyway.

MR. CUTI: Yeah.

MR. NUGENT: Put a new one up, put it 10 feet inside the line.

MR. FENWICK: You get this bank approved and the new one goes up there's no shed.

MR. CUTI: This has already cost me a small fortune.

MR. FENWICK: There's no shed, okay?

MR. CUTI: Let me just make it -- was only put back on here only for the fact that it would have been easier to approve, that would have been the simple, you know, so, yeah, well, like I said --

MR. FENWICK: You're going to replace that shed because this shed is falling down, correct?

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MR. CUTI: Yes.

MR. FENWICK: Read between the lines, take the shed down, the shed is gone. The shed is off the variance. The shed is off the application. Now, whether the bank comes in and says everything is all set sometime in the future, you can put a shed in your back yard legally or so.

MR. CUTI: Only addressing the pool and the deck?

MR. LUCIA: The Chairman is not telling you what to do. He's suggesting that you have a decision at this point.

MR. CUTI: I wasn't addressing the shed until he mentioned that it was still on there, other than that --

MR. LUCIA: If you want the variance on the shed, you have to ask for it. If you want to remove it, you're entitled to do that.

MR. CUTI: The shed can be gone, I have no problem.

MR. TORLEY: Is that pool actually on the border or did we establish that it was not overhanging?

MR. CUTI: See, the way the property line has changed, probably closer or whatever to it. That's where the problem came in the way the survey was, the way the drawing of the property is now.

MR. TANNER: This is what I'm having a problem with, how do we have the property lines jumping all over the place?

MR. LUCIA: The property line I don't believe changed, I think what may have happened if I can take a look at the survey you're holding there, I don't believe the property line ever changed. It could be this survey was inaccurate. It could be that the dwelling was not properly located on the lot but the property lines could not have changed without you and your wife signing a deed to change those property lines.

MR. CUTI: How can a title company accept that survey?

MR. LUCIA: They probably never went out and looked in

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the field. If it comes in with a surveyor's seal on it, they assume it's accurate. They don't go out and check his work.

MR. CUTI: In other words, when the town had these things done in 1975 and whatever, if they were inaccurate, I have to bear the burden of it?

MR. TANNER: The developer did.

MR. FENWICK: You're developer did.

MR. CUTI: No, now all the banks and title companies have accepted them and now they are wrong.

MR. LUCIA: If it had been certified to you, you might have had an action against the surveyor but this was certified only to the title company and Heritage Savings Bank.

MR. FENWICK: The lot is probably the same. What's happened is your house is not located on the lot like it shows. This is a preliminary, this isn't the only one, this is probably a preliminary survey, part of the subdivision or the original subdivision map which placed all these houses.

MR. CUTI: I know they were done again because the town sent the people out there.

MR. LUCIA: Where did the figures from your application come from, the 40 feet rear yard?

MR. CUTI: According to the way they told me to measure them, I had to go out and measure them, that's what I was instructed to do, the time when we applied for the permit.

MR. LUCIA: Now you, now you have a pending refinance application. Did you get a new survey for that?

MR. CUTI: No. Like I said, when they asked for the survey, they found the survey and they accepted the survey as stated.

MR. LUCIA: You're saying the house is not located where the survey says it is?

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MR. CUTI: No, I'm saying the way the lines were changed. Because through looking at this, it says there's 26 feet from the front from the corner of the house itself to the edge of my property line. If I measure 26 feet from the corner of the house away from the corner of the house, it still leave 15 feet or so to the curb.

MR. LUCIA: That is because the road is wider than the paved surface. You don't have 50 feet of pavement in front of your house. You probably have 27 or 30 so 10 feet of what looks like is your lawn is really the town's road so the 26 foot measurement from the corner of the house is the actually the road boundary although it doesn't look like road, it's road. What you're mowing is actually part of the town's road.

MR. CUTI: So, I'm measuring from the town's property to the back of my house 100 feet is what you're saying?

MR. LUCIA: You need to measure from that point say assuming that measurement is accurate, assuming the 26 foot measurement from the front of the house to the road is accurate, measuring from that point to the rear.

MR. CUTI: It's not 26 feet to the road, it's if I measure 26 feet from the corner of the house if I measure, if this was the corner of my house and I measured from here 26 feet out, there's still another 15 feet to the curb so where are you saying to measure from?

MR. LUCIA: That point in your lawn is your actual property corner. That's where the road ends.

MR. CUTI: If I measure from where that 26 foot ends, there's no variance because I'll have a hundred and some odd feet measured from the 26 feet backwards 100 feet. My deck is 1 foot, you're looking at 39 feet instead of what this drawing said.

MR. FENWICK: You measured from the curb and that's how you --

MR. CUTI: That's how I was told. I called up twice and that's the way I was instructed to do it because the first time it didn't make sense because when I

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spoke to my attorney, she said that I can't be right, call them back. I called them back again and I was told measure from the curb 100 feet back.

MR. TORLEY: If you measured from the back of your house according to what that document

MR. CUTI: If I measured 50 feet from the back of my house, my deck is 39 feet from the property line. We are looking at a 1 foot variance instead of an 8 foot variance.

MR. TORLEY: What about the pool?

MR. CUTI: Three (3) foot variance in the back. It would be figure 50 foot back, the pool is like 7 feet from the property line.

MR. FENWICK: You don't have any property stakes in the rear of your property?

MR. CUTI: You really can't find them. The brush is so bad back there and dirt and stuff has been pushed back.

MR. BABCOCK: Maybe we can ask the applicant on the refinancing, is the bank requesting a new survey from him?

MR. CUTI: No, the only thing the bank is requesting right now is a C.O.

MR. BABCOCK: You have to remember one thing. We do not know where his house is. We do not know where the pool is. We are only giving you the information what was given to us, so what he need to do is if his survey, if he feels that the survey is incorrect and the information supplied to us is incorrect, should get somebody so they can decide where his house is.

MR. LUCIA: Based on what you said concerning your measurements, I think maybe that survey that you presented to us is in fact accurate and you were just measuring from the point that should not have been a proper reference point. Given that, I don't think you really know the extent of the variance you're looking for. Apparently, you're looking for a variance.

MR. CUTI: The only variance I'm looking for is what is

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stated in the form here, that's the only variance I'm looking for. I only had the one question as far as what was right, that's all, because my question was if I did it wrong, then I didn't want to let it go into the record wrong. If I measured it right, and that diagram was right, then that's what the variance was applied for.

MR. FENWICK: There's no way of us knowing.

MR. LUCIA: We cannot, when I say we, I don't think the Board can vote on your variance unless we get more accurate data.

MR. CUTI: I'm only looking to just get the variance that's here. That's all. We went through this the last time. That's why my lawyer typed it up this way. I only asked the question. Just the one question just to satisfy myself. That's all. This is the only variance I'm looking for and I only need this to say I'm not selling the property. I'm only looking to satisfy the bank. The bank is the only person who is holding the whole thing up because of the C.O.

MR. LUCIA: I understand that but someday you're going to want to sell the property or your wife or your heirs or somebody is going to want to sell it so you ought to get it resolved accurately.

MR. TORLEY: If the original plot plan is actually correct which means that the variances, he would require actually less than what he's requesting. What then is the harm then if we grant him the variance if he needs 3 feet, we grant him an 8 foot variance, turns out he only needs 3.

MR. LUCIA: The harm is somebody goes to replace it, he can shove 3 feet against the property line which is considerably different from where it is now.

MR. CUTI: I was told this survey is no good, if this is no good, I just want to let them know that it's no good because they are not concerned as much with the survey as they are just getting the --

MR. TANNER: They will be if we tell them it is no good.

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MR. LUCIA: I don't think that survey is no good. I think it's good and it helps you if that survey is accurate looking for much smaller variances.

MR. CUTI: I'm not going to get the variance tonight.

MR. LUCIA: What I would suggest is just if it's up to the Board if they adjourn the public hearing, give you time to go out and get an accurate measurement and come back and ask for your variance.

MR. CUTI: It has already cost me a fortune. I lost this here, I lost the home equity loan as of tomorrow. If I don't get the variance tonight, that's it. So, it cost me \$1,000 for the application fee.

MR. FENWICK: You won't have it tonight anyway, even if we passed it, you wouldn't have it tonight. That's the formal decision.

MR. LUCIA: This problem is not going to go away. You need to get it fixed.

MR. CUTI: Obviously, what you're saying, don't do nothing now, I lose the money that I sent out on the letters.

MR. LUCIA: What I'm suggesting, listen to me.

MR. CUTI: Now, it doesn't pay for me to come back and do this.

MR. LUCIA: What I'm suggesting the Board might do is adjourn the public hearing, that means you don't have to send out any new notices. We just put it off until some future time when you can come back with a survey showing property measurements. At that point, they can handle your application.

MR. CUTI: If I do this now, it doesn't pay for me to come back.

MR. LUCIA: Well, you're not going to pay anymore just physically come back.

MR. CUTI: Sending out the letter isn't the problem, I have already lost \$1,000 with the bank. That's not going to be refunded. If that's the variance that we

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are going for, why don't we just use this variance and just go for that variance?

MR. LUCIA: Well, the reason is you're going for 100% variance in one case, that's very dramatic variance that we require very substantial proof. I'm not sure what you told the Board is enough to grant you a variance. If indeed what you're looking for is only 50% then maybe what you said is enough to grant the variance.

MR. CUTI: Why don't we go with the one that I'm looking for? If that's -- I'm not looking for anything more than just what we have in the paper. That's the whole thing.

MR. LUCIA: What you are looking for in one case is all of the side yard, that's as big a variance as anybody can ask for.

MR. FENWICK: Now that we have a question in front of us, Tom, and if it turns out that it is not close now --

MR. NUGENT: You're taking the shed down?

MR. FENWICK: Shed is not what we're concerned with. The pool has some clearance.

MR. CUTI: No, it doesn't, it has 3 foot on one side.

MR. LUCIA: Not according to the diagram.

MR. FINNEGAN: You're asking for 10 feet.

MR. BABCOCK: It's 3 foot off the side, 3 foot 6 inches off the side but zero off the rear.

MR. LUCIA: You're asking for 100% rear yard variance, you can't ask for anymore than that.

MR. CUTI: What you're saying take down the pool.

MR. LUCIA: No, what I'm saying is get an accurate survey, tell us how close the pool is.

MR. CUTI: How about if I take the pool and the pool deck down and I just go for a variance on the deck.

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in the OLI zone which was 30,000 square feet. By adding the additional land, by merging the two parcels, the Sheafe's now have a parcel of some 3.2 acres which in part is devoted in fact, is large part is devoted to the commercial activity and it's that enlarged parcel on which the Sheafe's thought to build a 4800 square foot warehouse. The warehouse is for storage purposes. It would be served by electricity but there would be no water and no sewer hooked up. It's called in the application a cold storage. I think probably dry storage is a term that better expresses what it would be used for.

The Sheafe's appeared before the Planning Board, submitted a proposed site plan and that Board property stated that that property is in the R-1 zone. They cannot proceed further with the site plan review and sent the Sheafe's to this Board for the purpose of securing a use variance. The Sheafe's appeared before you and I must admit I wasn't here in September and you scheduled a public hearing for this evening. The presentation will be made by Mr. Sheafe who from whom you'll hear how the business was developed and the hardship that would be visited upon the business which really is the Sheafe family, if it's not in a position to expand because as you all know, in today's world, if you stand still in business you go backwards and without the ability to expand the business will be going backwards.

The second presentation to you will be made by Joel Feinberg of Mid-Hudson Appraisers. His responsibility will be to address those aspects of an application for a use variance which deal with the economic issues. You'll hear that in his opinion, this property is economically committed to the use which is there at present, commercial, that there would be a hardship because of the inability to secure a reasonable return on the Sheafe's investment.

In addition to that, if the property had to be used for any use in the R-1 zone, it would not really result in the Sheafe's securing a fair value for the property, particularly in view of the investment again that investment made while OLI was the zoning. Secondly, that the development of the warehouse would not effect a change in the neighborhood and third, that there would be no adverse impact on the adjoining property,

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behind the house?

MR. LUCIA: That is up to you coming in for it would be cheaper and easier to go get a survey and do it right.

MR. FENWICK: The bank is not asking you for a survey?

MR. CUTI: No, only thing the bank is asking for is a C.O.

MR. BABCOCK: Mr. Chairman, what is happening. apparently the bank is not asking for a survey, they're asking for a C.O., which typically you're going to want a survey to be able to get so in order for me to issue you a C.O., they're taking the Town of New Windsor's word saying if we give a Certificate of Compliance, it's in compliance, therefore there's no problem, that's what the banks are looking for.

MR. CUTI: The shed and pool were up when they came to look at the thing to do the examination of the property. So, if that's the only two things that are holding it up, is the shed and the pool, the deck on the house can't go anyplace, that's the only place the deck on the house can go.

MR. TANNER: Still have to have a variance.

MR. CUTI: Only thing I'm applying for is the variance on the deck.

MR. TANNER: I don't, even with the deck we have to know how far that deck is from the property line. If we give the wrong, if we approve the wrong numbers, the next person could come in and change that deck dramatically based on our figures.

MR. CUTI: This is what we are looking at 25 foot 8 inches from the property line.

MR. TANNER: But you're saying that is not accurate.

MR. CUTI: I'm saying I don't know if it was accurate, if I did it right or if I did it wrong. What I'm saying is I'm not questioning, I'm not questioning the surveys or anything else. What I'm questioning is if I measured it right. See, I measured the way they told me to measure. If I did it right, then this is why we

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are going for this variance. I'm only questioning my own measurement.

MR. LUCIA: Based on what you said, I don't think so if you measured from the curb line, you did not.

MR. BABCOCK: See, what is happening right now if you were to receive a variance for your deck on the back of the house, it would allow you to build your deck within 14 foot 4 inches of your rear yard. If your deck right now is 25 foot 8 inches, then the deck you have right now is just legal. If your property line is 40 foot away, that means you can put on another deck out to 14 foot from your property line. That's what this Board is --

MR. LUCIA: What you're asking for assuming there's an error of 10 foot is a deck that's 10 feet bigger than you have and a pool that's 10 feet further back than where it is now.

MR. CUTI: I couldn't be 10 feet back further than what it is now. Just come in looking for that variance and that's all we wanted to get. I mean that's, I'm just questioning did I do it right?

MR. LUCIA: I don't think you did based on where you said you measured it from.

MR. CUTI: Somebody should have told us that.

MR. TANNER: Is it possible to correct those and put it them according to the survey?

MR. BABCOCK: Sure.

MR. TANNER: Let's get the numbers straight away.

MR. BABCOCK: Alls we have to do is find out what the front yard setback is and deduct it from what he put down here and that will give you the difference.

MR. FENWICK: Do we know down in there if there are any front yards that are substandard, for instance, because if I go by what he's written down here, he's 35 foot 10 inches, which is ballpark, which he should have been 5 foot back, okay, do you know in fact if any of them are closer than that?

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MR. BABCOCK: I don't know that for a fact. Apparently, his survey is saying 26 feet.

MR. FENWICK: I don't go with that survey because I think that's just a subdivision map.

MR. LUCIA: It's located his dwelling though.

MR. FENWICK: It's a stamped survey.

MR. CUTI: It's not really a stamped survey. Actually, the title company doesn't really have anything on it other than what you see here. That's what the question was, that was the only question.

MR. FENWICK: If we used the subtraction method, we have got it, it's 26 by 50 and that will leave 24 feet for the depth of the house and probably same thing going the other way with 100 foot lot, 25 versus 26.

MR. LUCIA: That's assuming --

MR. BABCOCK: Is your house a bi-level?

MR. CUTI: Yes.

MR. BABCOCK: That 26 feet could be from the 2 foot overhang in the front too.

MR. CUTI: Well, the overhang, yeah.

MR. BABCOCK: That's where the difference might be coming up a little bit.

MR. LUCIA: You can do what you want but my recommendation is I would request that the Board adjourn your application, go hire a surveyor, let him put the proper numbers on that and come back and ask for the real variances you need, get it done.

MR. CUTI: Actually, what it actually boils down to I really don't have to come back anymore.

MR. LUCIA: You still have the same problem. I understand your frustration losing the money, applying for the mortgage but someday you or your wife or your children or somebody is going to have to sell this

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house and the same problems are going to exist.

MR. CUTI: Is there anything that can be done just to be able to show compliance to go through with this?

MR. LUCIA: You're almost there, all you need to do is come back with the right numbers.

MR. TANNER: Can we give him the numbers saying that it's pending or something? You can give that to the bank and say you had appeared before us and it's pending.

MR. FENWICK: We have done that before, people have said, can I get something.

MR. CUTI: It's through the union and the rates were held at this, in fact we had to give extra money from the hearing that we had in the beginning we had to lay extra money out to maintain the rate till now so now that the extra money has been put in, it's over \$1,000 that's in this now we're in there to get an extension.

MR. FINNEGAN: Your rate has increased since the summer?

MR. CUTI: To hold the rate from the last meeting, more money had to be put down so now I'm up \$1,000 into the hole for that. Now, if I can't get the variance on it --

MR. BABCOCK: I don't think it's the variance that he needs, it's the Certificate of Compliance is what he needs and he can't get that without the variance.

MR. TORLEY: Anything we can do to help him?

MR. LUCIA: I'll write you whatever you want, I can say you have appeared and it's pending upon accurate survey from your surveyor. This Board does not now have accurate enough information to vote on anything.

MR. CUTI: My only question is why can't we use, just use the variance that is there now?

MR. LUCIA: Because we don't know what's there now.

MR. CUTI: One thing I don't understand we all say the

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survey is not the right thing.

MR. LUCIA: I'm not saying that, I think your sketch is wrong.

MR. CUTI: Why can't we apply my sketch to the survey?

MR. LUCIA: Because we can't plug in all the right numbers, we need a surveyor to look at it and do offsets from the building to the property lines to the side lines, the surveyor is the only one who can do it accurately.

MR. FENWICK: If you can find your pipes then it would really help you out a lot. Might not need to go to a surveyor.

MR. CUTI: There's no way to do it the way they piled everything up in the back and the way the overbrush is now in the back, there's no way to do it. And getting the surveyor just adds a couple hundred dollars more into it.

MR. LUCIA: A couple hundred dollars for a survey now you go and sell the house ten years and it's going to be a \$1,000 for a surveyor. Spend the money now and do it right.

MR. FINNEGAN: You need a surveyor right now. You have a problem with the credit union, you ought to give them a call tomorrow.

MR. CUTI: We are already on the phone with them today and that's it. The bottom line is now they were waiting for the hearing. If the hearing was favorable.

MR. TORLEY: I have absolutely no trouble granting you the appropriate variance for the deck and the pool but we don't know exact numbers, the shed is gone but we don't know what numbers to put in there. Is there any way we can have the letter phrased with the concurrence of the other gentlemen to say we have no problem with these variances. There are some details with the numbers we have to settle.

MR. TANNER: Can't do that.

MR. FINNEGAN: Can't help you tonight, can't get the

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C.O.

MR. CUTI: I misunderstood everything because I thought once the hearing was over the hearing would have been granted. Then I would have had to apply for the C.O.

MR. TANNER: We have to write a formal decision after we grant the variance and that takes time.

MR. CUTI: My thing was if the variance was granted at least I would have something to tell them that the variance was granted and that the -- more or less lose the money and go with that.

MR. LUCIA: I would suggest you come this far you pursue it.

MR. CUTI: Unfortunately, I ran out of money.

MR. LUCIA: It's not going to get cheaper.

MR. CUTI: Not get cheaper but at least I won't be losing any money.

MR. LUCIA: We can't tell you what to do but my recommendation is you've come this far, do it right.

MR. TANNER: I would like us to right a letter.

MR. CUTI: Like you said, if you don't know the things, he's not going to write the letter.

MR. LUCIA: I'll write whatever you need but you still need to go out and get the measurement done accurately so the Board has something to vote on.

MR. CUTI: What do you need?

MR. LUCIA: A surveyor.

MR. TORLEY: We'd be willing to write a generally phrased letter my reaction it's in process and I don't know if I can say this now but I'm favorably disposed to granting the required variances. We don't know the exact number to use there.

MR. TANNER: Can't say that.

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MR. FENWICK: We do have public hearing and we might want to hear what they are going to say before we continue. I'll open it to the public. If you have something to say, give your name and address. Comments about Mr. Cuti's property?

JOSEPH BUER: We buy this house maybe 34 years ago and move, never change nothing. I don't know. I never complained something about the house, I don't know. We come today from New York. We live in New York. We work in New York. This property we just own weekends sometimes. We left the job seven o'clock and we come over here but --

MR. LUCIA: Do you understand what Mr. Cuti is asking about?

MR. BUER: Yeah, sure.

MR. LUCIA: Do you have any objection to his request for a variance for a rear and side yard setback on his house deck and pool and pool deck? Do you object to where it is now?

MR. BUER: Object, never move, never change nothing. I got my house is straight no like this in the corner from one side and it's straight.

MR. LUCIA: I don't think anyone is saying you moved nothing. Mr. Cuti didn't move anything either. What we are asking is do you think his deck and his pool are to close to the back and side yard?

MR. BUER: No.

MR. LUCIA: You don't mind it where it is?

MR. BUER: Yeah, sure.

MR. LUCIA: You don't object to this?

MR. BUER: No. We got the letter yesterday and we come today. Thank you.

MR. CUTI: If the pool is down, is there still a problem?

MR. LUCIA: You still have the house deck.

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MR. CUTI: I'm just saying if the pool and shed are down, we're only talking about the deck, that's all I'm worried about.

MR. TANNER: Still have to have the correct numbers for the deck.

MR. CUTI: The deck actually, well

MR. TORLEY: That's a trivial variance.

MR. LUCIA: The Board needs a number to vote on.

MR. CUTI: If the builder would have put it up, decks have been up, decks have been up and they are all the same size. We have no problems taking the pool down and shed down.

MR. LUCIA: I don't think you need to take the pool down but get us numbers.

MR. CUTI: Personally, I'd rather take the pool down. That's the only one I'm sure of, the property line.

MR. LUCIA: It may not be --

MR. FENWICK: If the pool turns out it falls within the property, the realm of your property, probably I'm speaking for myself, I don't find any problem with that. You know if it falls anything within your property line, probably you have got no problem but we have got to know what the property line is. You're willing to take the pool down, but we have got to have an accurate number. That's the problem. This is a law that we are writing. If you looked at this, there's actual numbers written in this law and this becomes law for your piece of property in the Town of New Windsor, okay, so it becomes a professional document in part of New Windsor law.

MR. CUTI: Easiest thing to do is take everything down and just leave it like that because if everything is down I don't have to come to you and get a C.O. because the house had a C.O. from when we moved in so actually if I go to sell something and there's nothing there, the people don't have to have a C.O.

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MR. FENWICK: You wouldn't want to think what it's going to cost you put it back though.

MR. FINNEGAN: You have gone all the way through the process. You have made a basic mistake of not getting a survey much early on. We have to write a law for it and it's got to be exact and that's the problem.

MR. CUTI: How long is the adjournment for?

MR. LUCIA: Until November 25th, that's the next meeting.

MR. FENWICK: We can give you a letter of intent, whatever you want within what we can do within the borders of the law. Dan can probably write a letter for your credit union.

MR. TORLEY: Does anybody have a problem if we knew what the numbers were?

MR. FINNEGAN: If we knew what the numbers were, we might have a problem.

MR. TORLEY: I'd be willing to grant the variance if these numbers were accurate, if we knew that.

MR. CUTI: No way to get it done sooner?

MR. LUCIA: Even if we voted, you couldn't get the decision until November 25th, even if it had been ready to go tonight, you still wouldn't get a decision.

MR. CUTI: Even if I come back November 25th, you don't get it?

MR. LUCIA: December would be your decision.

MR. CUTI: The longer I keep on going, that's the more money I have to put in to hold, you have to put up front money, the application fees are only good for so long. Once they run the course of the application like the original one was for September, once you have an application rate, the rates do not go lower, the application rate only holds it at 9%. It's at 9% now for no matter what, how long we go. If the rates go up to 15%, I pay 15%. I don't get. I lose the 9%. If I got to 7%, I still pay 9%. Banks never go lower.

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MR. LUCIA: Submit a new application at 7%.

MR. CUTI: I lose \$1,000 there plus you start over with application fees.

MR. LUCIA: Over 30 years that might be the cheapest \$1,000 you ever spent. Anything the Board does is you need to come back with the right numbers before the Board could do anything. I'll write whatever you want or your attorney wants in terms of what the Board has done or what expects to do but you need to go out and get numbers so the Board can vote on it.

MR. CUTI: Bank is only looking for a C.O.

MR. BABCOCK: That's all they'll accept. We have tried it through my office with different letters and it has not been accepted. They don't want to know what the procedures are. They know that. They want the certificate.

MR. CUTI: That's all they're looking for is a Certificate of Occupancy that you have lived in there for 16 years which you can't get for living in there for 16 years. They issued a C.O. without insulation, the building we had no water, first cold day we had the year we were here pipes froze and that was it.

MR. NUGENT: Almost every house in that development did.

MR. LUCIA: I think the Board would entertain a motion to adjourn the public hearing, if you want to come back to the next meeting with some numbers from the surveyors.

MR. CUTI: I guess so.

MR. TORLEY: I'll make a motion.

MR. FENWICK: If you got the adjournment, you can continue you're not getting any further than you are right now. I mean it's not going to go, whatever happens with the loan, or anything else, you're dead in the water right now and now that no matter what happens if you pass it if we did something with it, you're still dead in the water tonight. Whatever it cost you

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on the outside, it's still not going to cost you anymore as far as this Board is concerned, depending on what it is going to cost you for the survey. The way you stand with the Board at least you can get it done, at least you can get back squared legal and then be done with it and then maybe along the line or between now and then you can find a cheaper way, a better way from a credit union into a bank but what I'm saying don't let it drop, I think letting the thing drop it's smart just continue, get your Certificate of Occupancy and everything you need.

MR. TORLEY: Get it done legal, you can laugh at all your neighbors that have to do it at more money.

MR. CUTI: It's almost easier to get it done illegally.

MR. FINNEGAN: Until you got to refinance.

MR. CUTI: But then if you take everything down.

MR. TORLEY: I made a motion we adjourn the public hearing to November 25th.

MR. NUGENT: I'll second it.

ROLL CALL:

Mr. Torley	Aye
Mr. Finnegan	Aye
Mr. Tanner	Aye
Mr. Nugent	Aye
Mr. Fenwick	Aye

MR. LUCIA: You understand what you have to come back with?

MR. CUTI: Survey.

MR. LUCIA: Take that print to him, tell him you need to locate the house, you need to locate the deck, you need to locate pool and the deck, let him do the offsets to your property lines, come back with that and I think we'll have the number we need to vote on it.

MR. BABCOCK: I think you should bring that to my office and do a new notice of denial with the new

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numbers on it.

MR. CUTI: For the other thing.

MR. BABCOCK: We are saying now you need 40 foot rear yard variance or whatever you need for your deck, whatever it will be, will change those numbers.

MR. CUTI: One other question, say it remains the same as which is on the original drawing.

MR. BABCOCK: Then you go with that.

MR. CUTI: There'd be no way to address that sooner?

MR. LUCIA: We're giving you the very next meeting the Board has, there's no meeting before that.

MR. BABCOCK: If you measured from the curb line, it's not to be the same. It's going to be in your favor. You're going to need less of a variance on each one of the items.

MR. CUTI: All right, thank you.

**PREVIOUS
DOCUMENTS
IN POOR
ORIGINAL
CONDITION**



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TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

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October 1, 1991

Mr. Thomas Cuti
510 MacNary Road
New Windsor, NY 12553

Re: Tax Map Parcel #73-1-7 (Thomas & Josephine Cuti)

Dear Mr. Cuti:

According to our records, the attached list of property owners are within five hundred (500) feet of the above mentioned property.

The charge for this service is \$65.00, minus your deposit of \$25.00.

Please remit the balance of \$40.00 to the Town Clerk's office.

Sincerely,

Leslie Cook

LESLIE COOK
Sole Assessor

LC/cp

cc: Pat Barnhardt

Kelly, Richard P. & Maureen A.
506 MacNary Rd.
New Windsor, NY 12553 X

Buer, Lidia X
504 MacNary Rd.
New Windsor, NY 12553

Canon, Jeffrey & Mary L. X
502 MacNary Rd.
New Windsor, NY 12553

Frank, Michael S. & Gay B. X
421 Philo St.
New Windsor, NY 12553

Goldsmith, William C. X
423 Philo St.
New Windsor, NY 12553

Molfetta, John & Beverly X
609 Sim St.
New Windsor, NY 12553

Wieber, Michael & Marie X
611 Sim St.
New Windsor, NY 12553

Suo, John A. & Katherine M. X
364 Nina St.
New Windsor, NY 12553

Rostek, Jan & Angelina X
362 Nina St.
New Windsor, NY 12553

Organ, Thomas F. & Margaret M. X
360 Nina St.
New Windsor, NY 12553

Smith, Ray C. & Elizabeth A. X
357 Nina St.
New Windsor, NY 12553

Bernstein, Myron & Phyllis F. X
355 Nina St.
New Windsor, NY 12553

Stadler, Edward A. Jr. & Kathy A. Knoll X
353 Nina St.
New Windsor, NY 12553

Scott, Thomas & Joann E. X
22-30 79 St.
Jackson Heights, NY 11370

Coyle, Mary M. X
407 Philo St.
New Windsor, NY 12553

Soule, Monica X
405 Philo St.
New Windsor, NY 12553

Siskind, Martin A. & Judith D. X
403 Philo St.
New Windsor, NY 12553

Stano, Edward C. & Barbara A. X
401 Philo St.
New Windsor, NY 12553

Roche, Martin F. & Maureen X
503 MacNary Rd.
New Windsor, NY 12553

Servedio, Frank D. & Jeanette J. X
419 Philo St.
New Windsor, NY 12553

Rones, Joseph & Ellen X
417 Philo St.
New Windsor, NY 12553

Jusino, Michael A. & Loretta X
511 MacNary Rd.
New Windsor, NY 12553

Schaustal, Frank J. & Nancy M. X
509 MacNary Rd.
New Windsor, NY 12553

Ferrari, Stephen J. & Kathleen L. X
400 Philo St.
New Windsor, NY 12553

McCarthy, John & Honora X
402 Philo St.
New Windsor, NY 12553

McCrossen, Donald G. & Susan J. X
404 Philo St.
New Windsor, NY 12553

Mulligan, Thomas P. & Lori J. X
406 Philo St.
New Windsor, NY 12553

Moresco, Vincent J. & Susan J. X
408 Philo St.
New Windsor, NY 12553

Belaus, Kathleen T. X
517 MacNary Rd.
New Windsor, NY 12553

Camarda, Richard J. & Mary D. X
515 MacNary Rd.
New Windsor, NY 12553

Scheible, Otto
439 Little Britain Rd.
New Windsor, NY 12553

Upadhyay, Nrupendra & Vilas
14 Oxford Rd.
New Windsor, NY 12553

Nucifore, Joseph & Barbara
32 Oxford Rd.
New Windsor, NY 12553

Walmsley, Gordon L. & Janet M.
30 Oxford Rd.
New Windsor, NY 12553

Buehler, Russell E. & Monro Jo'Ann L.
19 Oxford Rd.
New Windsor, NY 12553

Wurster, John H. & Barbara J.
12 Oxford Rd.
New Windsor, NY 12553

Dullea, Gerald & Ervene F. Gulley
27 Oxford Rd.
New Windsor, NY 12553

Gilbert, H. Joseph & Angela M.
29 Oxford Rd.
New Windsor, NY 12553

Ciccone, Louis R. & Virginia
31 Oxford Rd.
New Windsor, NY 12553

Truocchio, Richard & Judith
522 McNary Rd.
New Windsor, NY 12553

Antelo, Jose & Georgia Dawn
520 MacNary Rd.
New Windsor, NY 12553

Sands, William & Angela
518 MacNary Rd.
New Windsor, NY 12553

Ronca, Anthony & Carol
516 MacNary Rd.
New Windsor, NY 12553

Zeccola, Vincent A. & Irma
514 MacNary Rd.
New Windsor, NY 12553

Romano, John & Rosalie
512 MacNary Rd.
New Windsor, NY 12553

Leissler, Francis & Marie B. X
508 MacNary Road
New Windsor, NY 12553

Weber, Wayne A. & Dorothy A. X
513 MacNary Road
New Windsor, NY 12553

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Prelim.
Sept. 23, 1991
91-29

DATE: 9-6-91

APPLICANT: Cati Thomas Josephine
510 MacNary Rd.
NEW WINDSOR, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 9-6-91

FOR (BUILDING PERMIT) NONE

LOCATED AT 510 MacNary Rd.

ZONE R-4

DESCRIPTION OF EXISTING SITE: SEC: 73 BLOCK: 1 LOT: 7

Existing One Family House, Installed
Pool Deck Attached Wood Deck & Metal
Shed without obtaining a Building Permit.

IS DISAPPROVED ON THE FOLLOWING GROUNDS: Pool Deck was
installed on Rear Property Line. Attached
Wood Deck Has only 35' 8" From Rear Property
Line - Needs 40' Metal Shed was installed
3'-9" From Side Yard Line. Needs 10'

Michael Bullock
BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>R-4</u> USE <u>dh</u>		
MIN. LOT AREA		
MIN. LOT WIDTH		
REQ'D FRONT YD		
REQ'D SIDE YD. <u>10'</u>	<u>Pool Deck 35'</u> <u>3.1'</u>	<u>6.9'</u>
REQ'D TOTAL SIDE YD.	<u>6.7'</u>	<u>3.3'</u>
REQ'D REAR YD. <u>40'</u>	<u>25' Pool Deck</u> <u>36.2'</u>	<u>10' Pool Deck</u> <u>2.8'</u>
REQ'D FRONT YD.		

510 MACNARY RD.
NEW BRIDWATER, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 9-6-91

FOR (BUILDING PERMIT) NONE

LOCATED AT 510 MacNary Rd.

ZONE R-4

DESCRIPTION OF EXISTING SITE: SEC: 73 BLOCK: 1 LOT: 7

Existing One Family House, Installed
Pool Deck, Attached Wood Deck & Metal
Shed without obtaining a Building Permit.

IS DISAPPROVED ON THE FOLLOWING GROUNDS: Pool Deck was

installed on Rear Property Line, Attached
Wood Deck Has only 35' 8" From Rear Property
Line - Needs 40' Metal Shed was installed
3' - 9" From Side Yard Line. Needs 10'

Richard Bakula
BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>R-4</u> USE <u>dh</u>		
MIN. LOT AREA		
MIN. LOT WIDTH		
REQ'D FRONT YD.	<u>3.1'</u>	<u>6.9'</u>
REQ'D SIDE YD. <u>10'</u>	<u>Pool & Deck 35'</u> <u>25' 8" Deck</u>	<u>8' 9"</u> <u>6.9'</u>
REQ'D TOTAL SIDE YD.	<u>6.7'</u>	<u>3.3'</u>
REQ'D REAR YD. <u>40'</u>	<u>25' 8" Deck</u> <u>36.2'</u>	<u>10' 1" Deck</u> <u>3.8'</u>
REQ'D FRONTAGE		
MAX. BLDG. HT.		
FLOOR AREA RATIO		
MIN. LIVABLE AREA		
DEV. COVERAGE	%	%

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
[REDACTED] TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

(914) 563-4630

CC: Z.B.A., APPLICANT, B.P. FILE

IMPORTANT
REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

1. WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
2. FOUNDATION INSPECTION. CHECK HERE FOR WATERPROOFING AND FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
4. WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
5. INSULATION.
6. PLUMBING FINAL & FINAL HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
7. DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
8. \$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE INSPECTION TWICE.
9. PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
10. THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
11. SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
12. SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS

Name of Owner of Premises THOMAS + JOSEPHINE Cuti
Address 510 MAC NARY RD Phone 562-3768
Name of Architect WOL 572-6260 J.P.M.
Address _____ Phone _____
Name of Contractor _____
Address _____ Phone _____
State whether applicant is owner, lessee, agent, architect, engineer or builder _____
If applicant is a corporation, signature of duly authorized officer.

Thomas C. C.
(Name and title of corporate officer)

1. On what street is property located? On the EAST side of MAC NARY RD.
(N.S.E. or W.)
and 200 feet from the intersection of PHILO STREET
2. Zone or use district in which premises are situated _____ Is property a flood zone? Yes _____ No _____
3. Tax Map description of property: Section 73 Block 1 Lot 7
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy _____ b. Intended use and occupancy _____
5. Nature of work (check which applicable): New Building _____ Addition _____ Alteration _____ Repair _____
Removal _____ Demolition _____ Other _____
6. Size of lot: Front Rear _____ Depth _____ Front Yard _____ Rear Yard _____ Side Yard _____

APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

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Name of Owner of Premises THOMAS + JOSEPHINE Cuti
Address 510 MAC NARY RD Phone 562-3768
Name of Architect Ward 522-6260 after P.M.
Address _____ Phone _____
Name of Contractor _____
Address _____ Phone _____
State whether applicant is owner, lessee, agent, architect, engineer or builder _____
If applicant is a corporation, signature of duly authorized officer.

Thomas C. C.
(Name and title of corporate officer)

1. On what street is property located? On the EAST side of MAC NARY Rd.
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a. Existing use and occupancy _____ b. Intended use and occupancy _____
5. Nature of work (check which applicable): New Building _____ Addition _____ Alteration _____ Repair _____
Removal _____ Demolition _____ Other _____
6. Size of lot: Front Rear _____ Depth _____ Front Yard _____ Rear Yard _____ Side Yard _____
Is this a corner lot? NO
7. Dimensions of entire new construction: Front _____ Rear _____ Depth _____ Height _____ Number of stories _____
8. If dwelling, number of dwelling units _____ Number of dwelling units on each floor _____
Number of bedrooms _____ Baths _____ Toilets _____
Heating Plant: Gas ☒ Oil _____ Electric/Hot Air _____ Hot Water ☒
If Garage, number of cars 1
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____
10. Estimated cost _____ Fee _____
(to be paid on this application)
11. School District NEWBURGH

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

Bartech

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....
Approved.....19.....
Disapproved a/c.....
Permit No.

Office Of Building Inspector
Michael L. Babcock
Town Hall, 555 Union Avenue
New Windsor, New York 12550
Telephone 565-8807

Refer —
Planning Board.....
Highway.....
Sewer.....
Water.....
Zoning Board of Appeals

APPLICATION FOR BUILDING PERMIT
Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed; the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

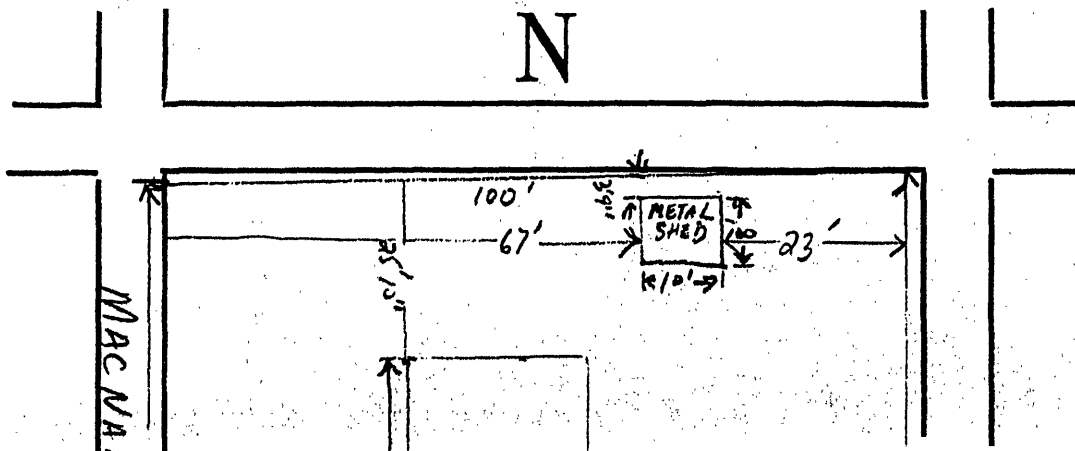
APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

Thomas L. Lee
(Signature of Applicant)

510 MAC NARY Rd.
(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.
Applicant must indicate the building line or lines clearly and distinctly on the drawings.



Refer —
 Planning Board.....
 Highway.....
 Sewer.....
 Water.....
 Zoning Board of Appeals

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

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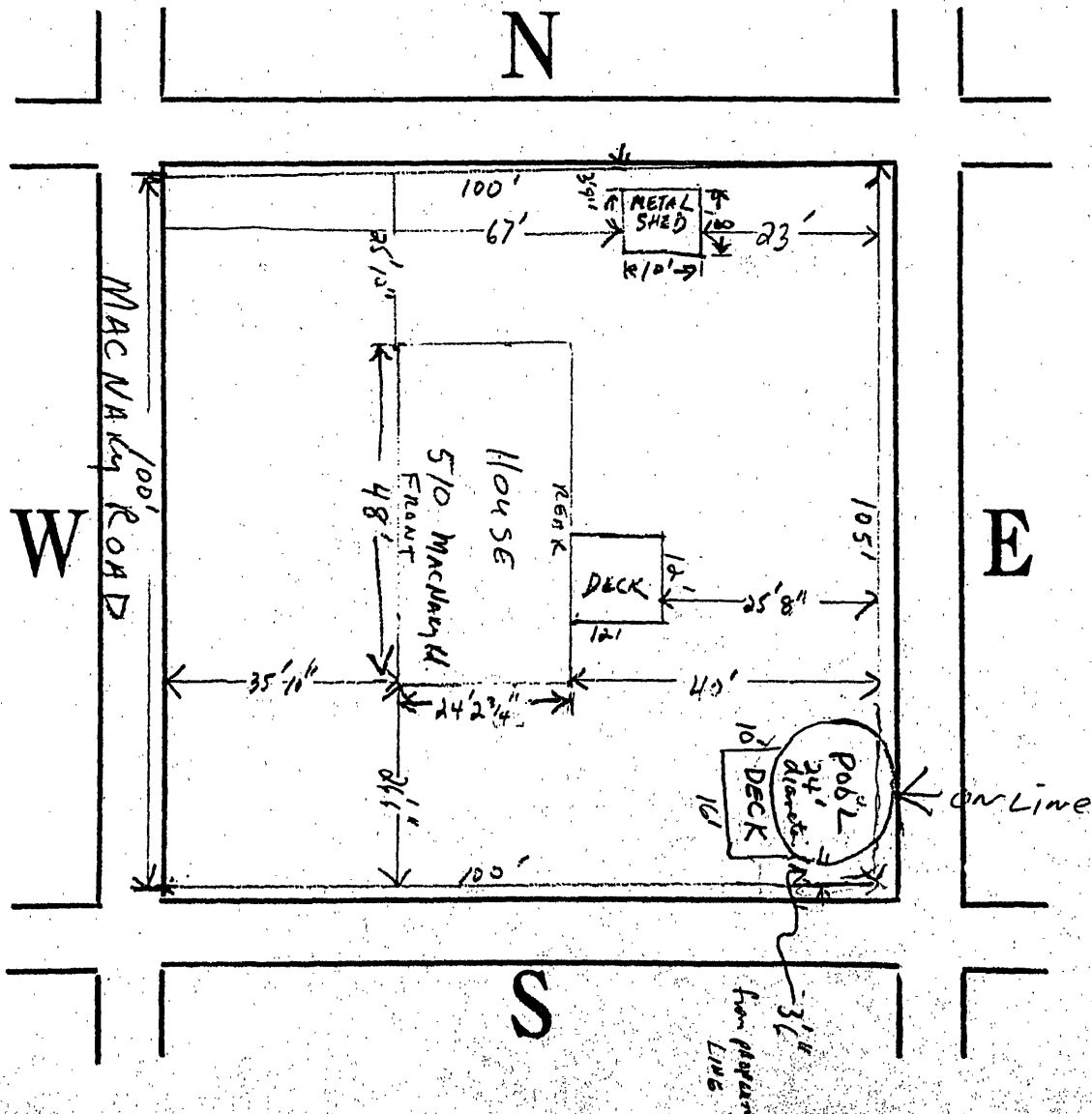
(Signature of Applicant)

(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

Applicant must indicate the building line or lines clearly and distinctly on the drawings.



73-1-7

SECTION 6

SECTION 4

SECTION 75

SECTION 7

LEGEND			
STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK NO.	FILED PLAN BLOCK NO.
CITY TOWN OR VILLAGE	EASEMENT LINE	TAX MAP PARCEL NO.	FILED PLAN LOT NO.
BLOCK & SECTION LIMIT	MATCH LINE	AREAS	STATE HIGHWAY
SPECIAL DISTRICT LINE	STREAM	DIMENSIONS	COUNTY HIGHWAY
PROPERTY LINE			TOWN RENTS

ORANGE COUNTY~NEW YORK

Photo by: 6-25-74 Date of Map: 10-24-72
Date of Photo: 5-1-75 Date of Revision: 3-1-88

Prepared by
ORANGE CO. TAX MAP DEPT.
MAIN ST., GOSHEN, N. Y. 10924

FOR TAX PURPOSES ONLY

NOT TO BE USED FOR CONVEYANCE

DANIEL S. LUCIA
ATTORNEY-AT-LAW
343 TEMPLE HILL ROAD
NEW WINDSOR, NEW YORK 12553

TELEPHONE
(914) 561-7700

October 30, 1991

Dorothy Milianta, Atty.
7-11 South Broadway, Suite 218
White Plains, New York 10601

Re: Application for Area Variances
by Thomas Cuti and Josephine Cuti

Dear Ms. Milianta:

Please be advised that at the October 28, 1991 meeting of the Town of New Windsor Zoning Board of Appeals a Public Hearing on the above application was opened. The Board heard Mr. Cuti speak on behalf of the application. No one spoke in opposition thereto.

The Board was unable to act upon the Cuti application since it appeared that an error had been made in calculating offset distances from improvements upon the property to the property boundary lines.

Thus the Board adjourned the Public Hearing until its next meeting on November 25, 1991. The purpose of this adjournment is to allow Mr. Cuti time to engage a surveyor to make an accurate calculation of the various offsets and submit that data to the Town Building Inspector. The Building Inspector will then prepare an amended Notice of Denial to conform to the new data.

Assuming that this is accomplished by the November 25, 1991 ZBA meeting, I anticipate that the ZBA will vote upon the Cuti application at that meeting. Thereafter, presumably at a December, 1991 meeting, the ZBA will adopt a formal, written decision upon the Cuti application for area variances.

Very truly yours,

Daniel S. Lucia
(Attorney for ZBA
Town of New Windsor)

DSL:rmd
cc: ZBA members
Mr. Michael Babcock,
Building Inspector

Rec'd.
ZBA 11/4/91 (PAB)
cc: members

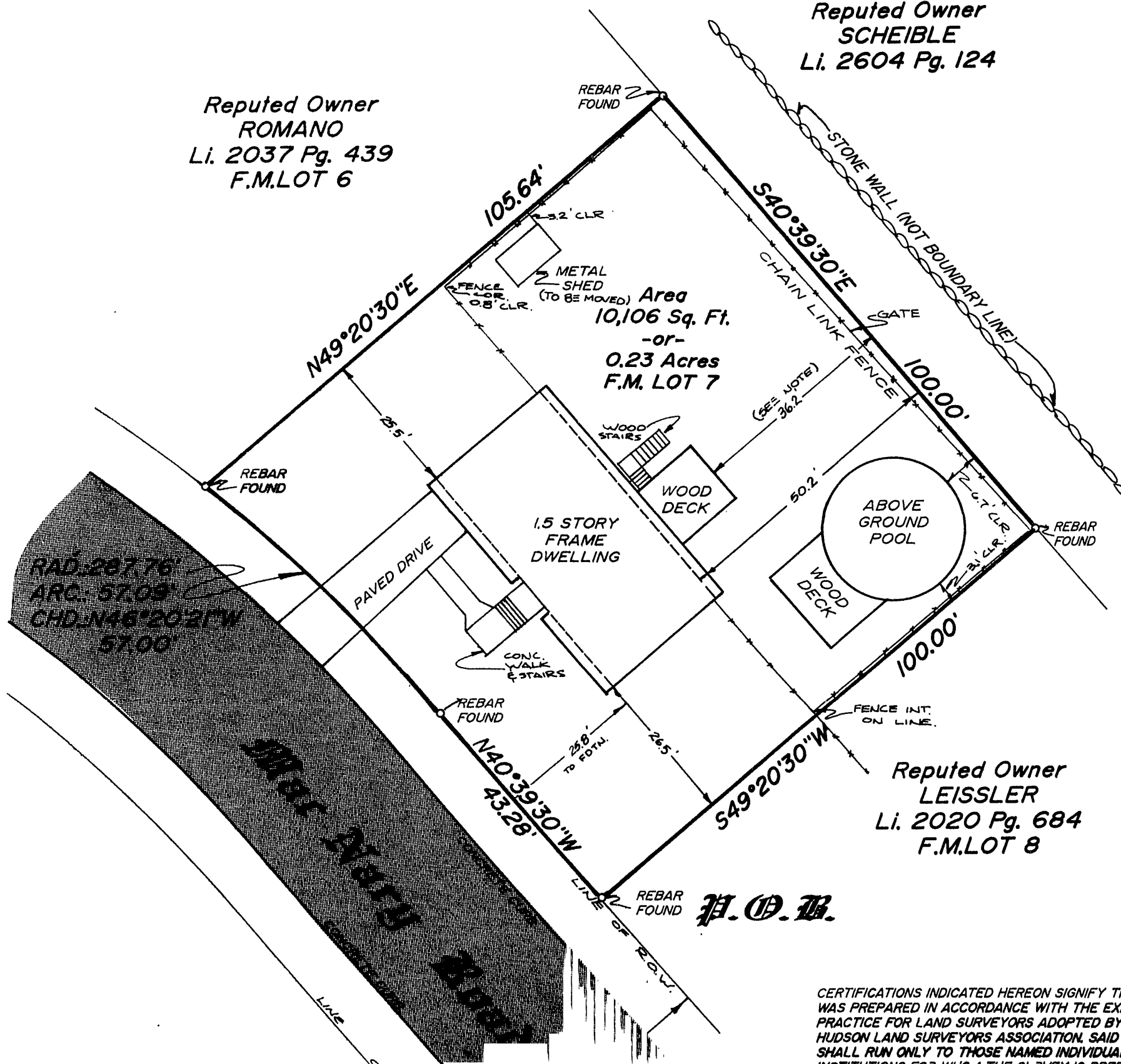
NOTE:

THE MINIMUM REQUIRED REAR
YARD AS PER FILED MAP No.
2869 IS 30 FEET.

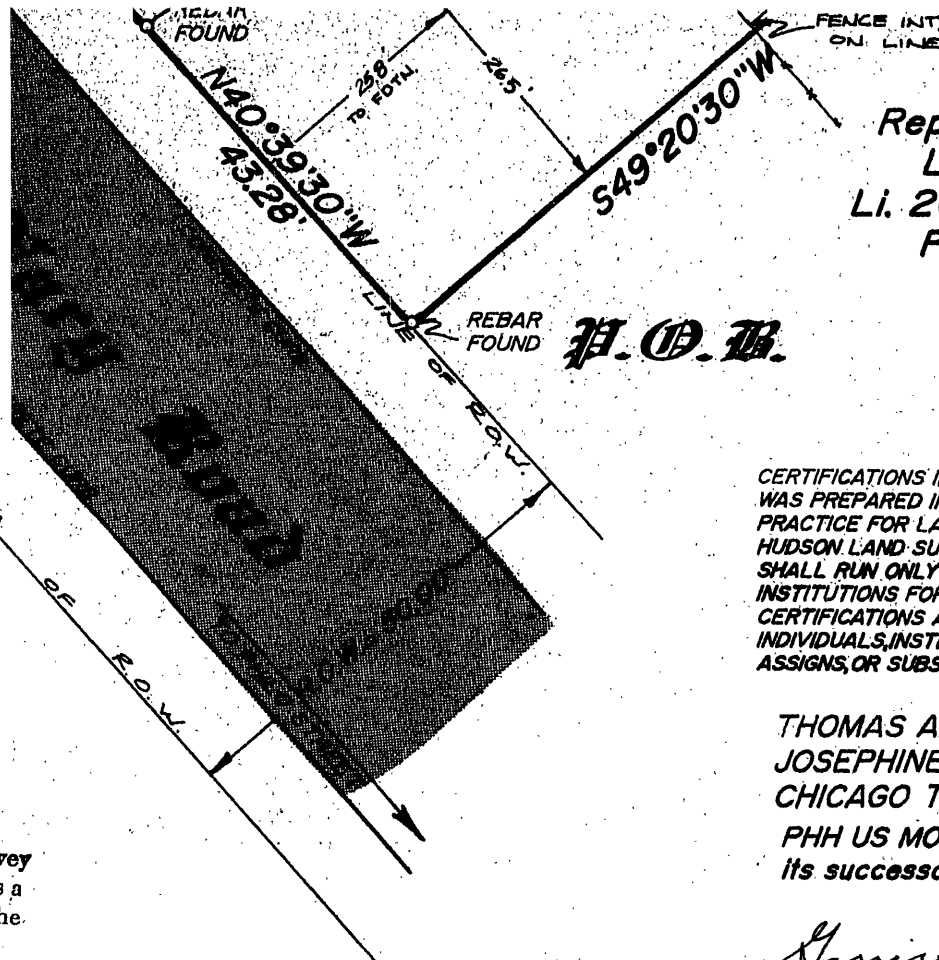
Reputed Owner
ROMANO
Li. 2037 Pg. 439
F.M.LOT 6

Reputed Owner
SCHEIBLE
Li. 2604 Pg. 124

Datum; F.M. No. 2869



CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY
WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF
PRACTICE FOR LAND SURVEYORS ADOPTED BY THE DELAWARE
HUDSON LAND SURVEYORS ASSOCIATION, SAID CERTIFICATIONS
SHALL RUN ONLY TO THOSE NAMED INDIVIDUALS AND/OR
INSTITUTIONS FOR WHOM THE SURVEY IS PREPARED



Reputed Owner
LEISSLER
Li. 2020 Pg. 684
F.M. LOT 8

H. O. M.

CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE DELAWARE HUDSON LAND SURVEYORS ASSOCIATION. SAID CERTIFICATIONS SHALL RUN ONLY TO THOSE NAMED INDIVIDUALS AND/OR INSTITUTIONS FOR WHOM THE SURVEY IS PREPARED. CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INDIVIDUALS, INSTITUTIONS, THEIR SUCCESSORS AND/OR ASSIGNS, OR SUBSEQUENT OWNERS.

THOMAS A. CUTI
JOSEPHINE M. CUTI
CHICAGO TITLE INSURANCE COMPANY
PHH US MORTGAGE CORPORATION
its successors and/or assigns

Garrison W. Scott
GARRISON W. SCOTT PLS. PC. LIC. NO. 049150

"Unauthorized alterations or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, sub-division 2, of the New York State Education Law."

"Only copies from the original of this survey marked with an original of the land surveyor's embossed seal shall be considered to be valid true copies."

This Document Supplied By:
GARRISON W. SCOTT,
PROFESSIONAL LAND SURVEYOR
P. O. Box 406 Rt. 17M
New Hampton, N. Y. 10958

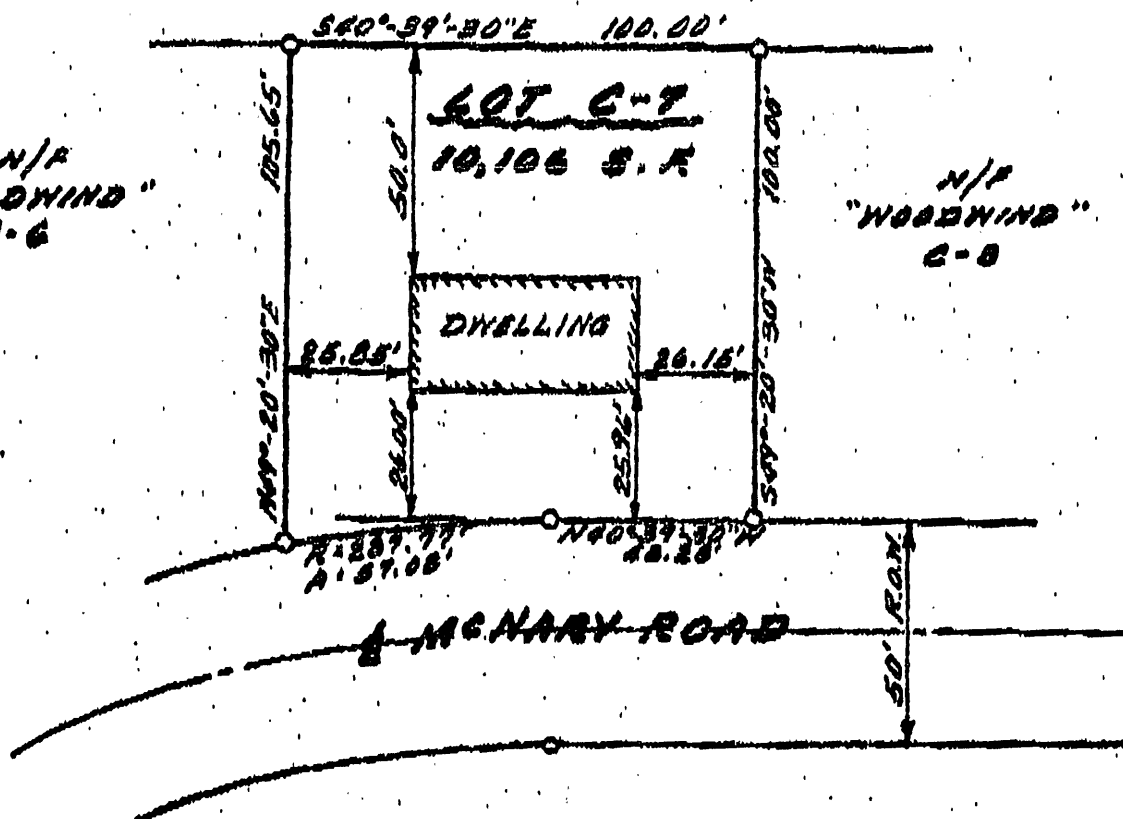
This Is A True and Valid Copy of
An Existing Record Only If this

Stamp Appears In **RED**

TITLE: SURVEY OF PROPERTY PREPARED FOR:			
Thomas A. & Josephine M. Cuti			
ADDRESS: 510 MAC NARY ROAD		TITLE#:	
TOWN OF NEW WINDSOR		COUNTY OF: ORANGE	STATE OF: NEW YORK
SCALE: 1" = 20'	DWG. NO.:	SURVEY DATE: NOVEMBER 19, 1991	REVISED:
CKD:	TAX MAP SECTION: 73	BLOCK: 1	LOT: 7
REFERENCES: MAP ENTITLED "WOODWIND" FILED IN THE O.C.C.O. SEPT. 6, 1972 AS MAP No. 2869, ALSO ADJOINERS AS NOTED.			
GARRISON W. SCOTT, P.L.S., P.C. PROFESSIONAL LAND SURVEYOR			
PHONE: (914) 355-4444 OFFICE: U.S. ROUTE 6 AT RIDGEBURY HILL ROAD			
(914) 374-6666 P.O. BOX 10 SLATE HILL, N.Y. 10973			
			REFER TO # 9/-7/

N/A
"WOODWIND"
C-6

4/8
"WOODHIDE"
C-8



PLAN OF LOT 6-7
"WOODWIND"

TOWN OF NEW WINDSOR, ORANGE CO., N.Y.

6046517-40'

5/22/68

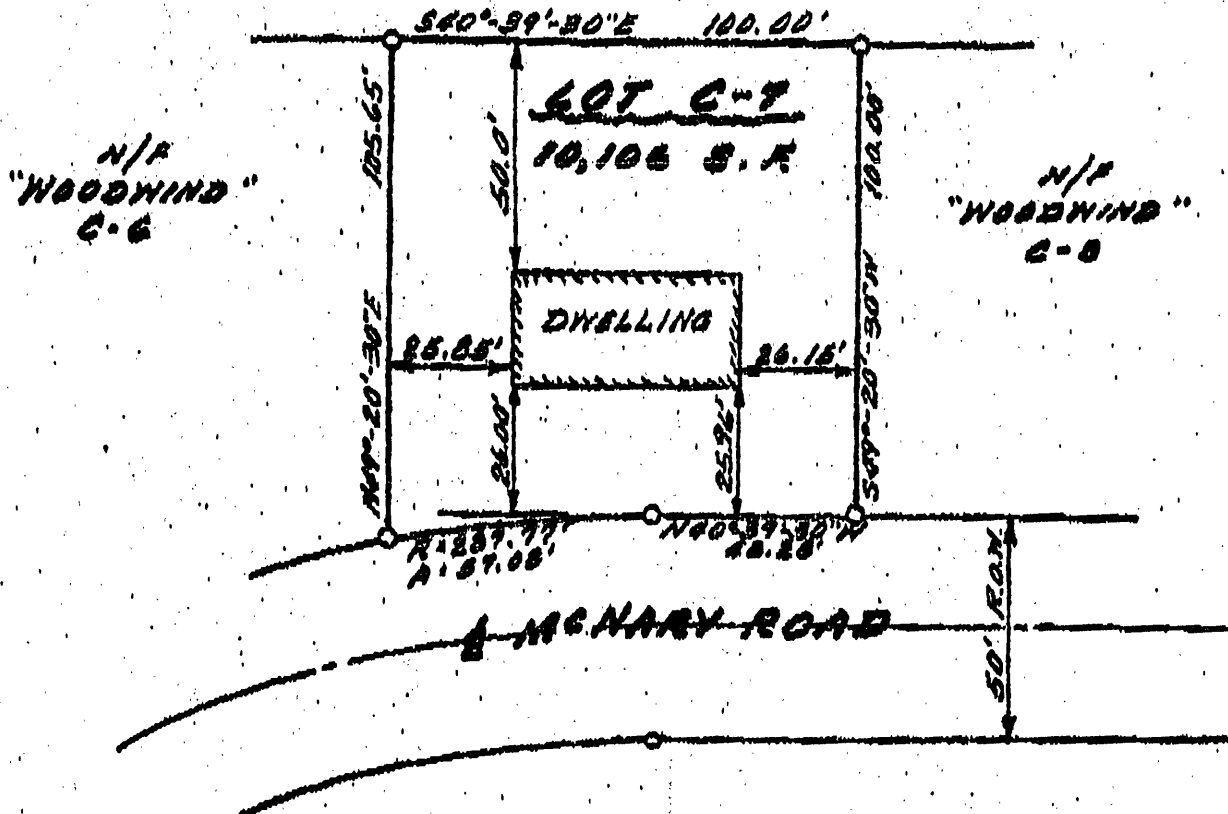
To: Amer. Title Ins. Co. And Heritage
Savings Bank.

*THIS SURVEY CERTIFIED TO BE TRUE,
CORRECT AND ACCURATE.*

Robert C. Barber

[illegible]

N/P NEWBURN SUPERIOR PACKING CO.



PLAN OF LOT C-7
"WOODWIND"

TOWN OF NEW WINDSOR, ORANGE CO., N.Y.

SCALE 1"=40'

SEPT. 4, 1916

TO: AMER. TITLE INS. CO. AND HERITAGE
SAVINGS BANK.

THIS SURVEY CERTIFIED TO BE TRUE,
CORRECT AND ACCURATE.

Robert E. Baker

ROBERT E. BAKER, L.S.
N.Y. REG. L.S. #22560

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

Date: _____

I. Applicant Information:

- (a) THOMAS CUTI, 510 MacNary Road, New Windsor, New York (914) 562-3768
(Name, address and phone of Applicant) (Owner)
- (b) N/A
(Name, address and phone of purchaser or lessee) (914)
- (c) DOROTHY J. MILIANTA, 7-11 South Broadway, White Plains, N.Y. 10601 428-4200
(Name, address and phone of attorney)
- (d) N/A
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- (☒) Use Variance (☐) Sign Variance
(☐) Area Variance (☐) Interpretation

III. Property Information:

- (a) R4 510 MacNary Rd., New Windsor, New York Bl.1 Lot 7
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? NONE
- (c) Is a pending sale or lease subject to ZBA approval of this application? NO
- (d) When was property purchased by present owner? 12/2/75
- (e) Has property been subdivided previously? NO
- (f) Has property been subject of variance previously? NO
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: Metal shed
- _____

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) (1) 8' 4" Side Yard Variance for existing above ground pool, pool deck & metal shed;
(2) 10' Rear Yard Variance for existing above ground pool;
(3) 14' 4" Rear Yard Variance for an existing house deck.
- _____

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

SEE ATTACHED

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.		
Reqd. Rear Yd.		
Reqd. Street Frontage*		
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage* %	%	%
Floor Area Ratio**		
Parking Area		

* Residential Districts only

** No-residential districts only

(b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application.

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1			
Sign 2			
Sign 3			
Sign 4			
Sign 5			

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size

signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation.

- (a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.
- (b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

SEE ATTACHED

IX. Attachments required:

- _____ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- _____ Copy of tax map showing adjacent properties.
- _____ Copy of contract of sale, lease or franchise agreement.
- _____ Copy of deed and title policy.
- _____ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- _____ Copy(ies) of sign(s) with dimensions and location.
- _____ Check in the amount of \$ _____ payable to TOWN OF NEW WINDSOR.
- _____ Photographs of existing premises which show all present

X. Affidavit.

Date: 9/26/91

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Sworn to before me this

26th day of September, 1991.

XI. ZBA Action:

(a) Public Hearing date: _____.

(b) Variance: Granted ☐ Denied ☐

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

Thomas C. S.
(Applicant)

THOMAS CUTI

Dorothy J. Miliana
Dorothy J. Miliana
Notary Public - State of N.Y.
#60-2695360, Westchester
Commission Expires 11/30/91

STATE OF NEW YORK)

SS:

COUNTY OF WESTCHESTER)

THOMAS CUTI, being duly sworn, deposes and says that:

1. I and my wife, Josephine Cuti, are the owners of premises 510 MacNary Road, New Windsor, New York, as described on the Tax Map of the Town of New Windsor, State of New York, as SD Newburgh, Section 73, Block 1, Lot 7. Said premises are in an R-4 Zone. The house was built by and we purchased these premises from Inbro Development Corp. on December 2, 1975 and reside at said address as our primary residence. We are now attempting to refinance and enlarge our present mortgage. Attached hereto is a copy of the Certificate for Title Insurance issued by Bartech Abstract Corp. for Chicago Title Insurance Co., Title #9110-113-0947 in connection with said refinance.

2. I am the applicant seeking an area variance from the New Windsor Zoning Board of Appeals for a:

(a) 8' 4" Side Yard Variance for an existing above ground pool and pool deck and metal shed;

(b) 10' Rear Yard Variance for the existing above ground pool; and

(c) 14' 4" Rear Yard Variance for an existing deck attached to our 1 family house.

3. Unless the requested variances are granted, we will suffer the following unnecessary extreme hardships, despite our efforts to alleviate the said hardships, as more fully set forth hereinbelow:


(a) The back yard of our property is neither level nor flat and has a sloping uneven quality. We erected the existing above ground pool and pool deck and metal shed approximately 12 years ago in 1978 at their present locations and they have remained at the same locations to the present date. In order to erect the pool and pool deck and metal shed, we had to have the areas graded and levelled at a substantial cost and expense. The locations where the pool and pool deck and metal shed were erected were the only areas on our property which could be levelled and graded flat. If the area variances for the pool and pool deck and metal shed are not granted, we will be compelled to dismantle and remove the pool, pool deck and metal shed from the property at a very large cost and expense which we are unable to finance at this time.

(b) The existing deck structurally attached to our 1 family house was originally erected approximately 15 years ago in 1976. We periodically maintained and repaired the deck. In 1989, we made substantial repairs to the deck. At the time that the deck was originally erected in 1976, we were advised that no variance was required and the deck did not violate the then existing zoning laws. If the area variance for the house deck is not granted, we will suffer severe unnecessary hardship if we are compelled to have the deck removed, which will entail major construction demolition at a cost that will be economically impossible for us to bear.


4. We wish to apprise the board that from the respective dates that the pool and pool deck, metal shed and house deck were

installed and erected to the date hereof, we have not received any complaints or objections to them from any of our neighbors on the surrounding properties. We regularly and periodically maintain, upkeep and upgrade our entire property including the condition of the pool and pool deck, metal shed and house deck so that same are in impeccable condition consistent with fostering the intent and spirit of the New Windsor Zoning Laws.

5. We respectfully request that the variances be approved as soon as practicable.


THOMAS CUTI

Sworn to before me this
26th day of September, 1991


Notary

Dorothy J. Miliana
Notary Public - State of N.Y.
#60-2695360, Westchester
Commission Expires 11/30/91

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----X
In the Matter of Application for Variance of

Thomas Cuti,

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#91-29.

-----X
STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age
and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On October 16, 1991, I compared the 47 addressed
envelopes containing the attached Notice of Public Hearing with
the certified list provided by the Assessor regarding the above
application for variance and I find that the addressees are
identical to the list received. I then mailed the envelopes in a
U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
16th day of October, 1991.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 18, 1993

(TA DOCDISK#7-030586.AOS)

September 23, 1991

6 pages -
Prelim 2

PRELIMINARY MEETING: CUTI, THOMAS

MR. FENWICK: Request for (1) 8 foot 4 inch side yard variance for existing pool, pool deck and metal shed, (2) 10 foot rear yard variance for existing pool, and (3) 14 foot 4 inch rear yard variance for house deck at premises located at 510 MacNary Road in an R-4 zone.

Mrs. Thomas Cuti came before the Board representing this proposal.

MR. FENWICK: Tell us why you're going to need this.

MRS. CUTI: We are refinancing the house and the bank told us that we have this and we don't have a variance because when we built the house, we were told we didn't need one because anything that was to be taken down we didn't a variance or permit for and that was 15 years ago.

MR. FENWICK: So, you have never gotten a building permit for the pool or the deck or the shed?

MRS. CUTI: No.

MR. TORLEY: How long ago were they put up?

MRS. CUTI: The deck is about 15 years old. The pool is 10 years old. The shed is about 15 years old also.

MR. FENWICK: What about the deck on the house, is that part of the house or --

MRS. CUTI: We put it on the year after it was built.

MR. FINNEGAN: So you never thought you needed a building permit?

MRS. CUTI: No, we had called when we first put the deck on the house and they said at that time we didn't need a permit because it's something that can be taken down.

MR. FENWICK: You called the town?

MRS. CUTI: Yes.

September 23, 1991

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MR. LUCIA: Even though you did not realize you needed a permit, at the time, were you aware that the pool sits right on the property line?

MRS. CUTI: It's not exactly on the line, yes. I didn't realize there was a stipulation how far away it had to be.

MR. LUCIA: You thought you could put it all the way up to the property line?

MR. CUTI: I guess we did when we did it.

MR. FENWICK: What is the size of the lot?

MR. BABCOCK: 100 by 105.

MR. FINNEGAN: Your neighbors, they have decks and pools and sheds?

MRS. CUTI: Yes.

MR. FINNEGAN: So, you don't have any more than they have on their property?

MRS. CUTI: No.

MR. KONKOL: That's never been paved or anything?

MRS. CUTI: It's MacNary Road, not MacNary Lane, it's a dead end but can go out to 207.

MR. KONKOL: Not paved?

MRS. CUTI: No, not paved.

MR. KONKOL: Not that many houses on it either?

MRS. CUTI: Maybe ten.

MR. KONKOL: You have been there a long time?

MRS. CUTI: Yes.

MR. TORLEY: What is behind you?

MRS. CUTI: Newburgh Superior Meat Packing.

September 23, 1991

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MR. KONKOL: How did this surface that you needed the variance?

MRS. CUTI: We are refinancing the house.

MR. FENWICK: Usually what happens.

MR. FINNEGAN: You can't refinance unless you get the variance?

MRS. CUTI: Yes.

MR. FENWICK: Problem is, and I'll have the attorney explain it to you a little bit better later on is because you want to refinance your property, that's not a reason for a variance to refinance your mortgage.

MRS. CUTI: The bank wants us to have it.

MR. FENWICK: I know for everything you have wrong there to make that right by way of a variance, it has to be a problem with your property, not with you, okay? So you have what you have to do is establish the reasons why the pool is where the pool is, the deck is where the deck is. It couldn't be put anyplace else and it's what's called practical difficulty. Okay, therefore, everything that you have wrong here which there are three items, actually there's 1, 2, 3, 4, 5.

MRS. CUTI: Actually the shed is coming down.

MR. FENWICK: That helps.

MRS. CUTI: It's falling apart so it's coming down.

MR. LUCIA: Would you be removing the shed?

MRS. CUTI: Yes.

MR. LUCIA: Then we can delete the variance with respect to the shed then.

MRS. CUTI: I have pictures. I don't know --

MR. FENWICK: Yeah, it would probably help at this time. Is the fence your property line?

September 23, 1991

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MRS. CUTI: On one side, on the side of where the pool is. Where the shed is, it's not, it's like 6 inches.

MR. LUCIA: Mrs. Cuti, if I can just have you have a look at the sketch that's attached to the building permit. I realize that it's not to scale but judging from the numbers, I take it the deck by the pool is much closer to the house deck than that illustration makes it appear, is that correct?

MRS. CUTI: I guess so.

MR. LUCIA: Now, how much difference is there between the two from the house to the pool deck?

MRS. CUTI: Feet wise, I really don't know feet wise, 10, 15 feet.

MR. LUCIA: Thank you.

MR. TORLEY: The width of this room?

MRS. CUTI: No, maybe 10 feet.

MR. FENWICK: Dan, would you explain to Mrs. Cuti what the law says that she's going to have to do.

MR. LUCIA: If the Board sets you up for a public hearing on this, when you come back, you have to establish something that's called practical difficulty. That's the legal standard this Board has to make a finding of in order to grant you a variance. You're applying for some very substantial variances here, one of which is 100% of the applicable setback requirement, 10 foot on the pool it's right up against the line, you're asking the Board to allow you to completely ignore the 10 foot from the building line requirement. So, that's going to involve on your part some substantial proof you really need to come in with proof of significant economic injury from the application of the zoning ordinance to your land, why it is that you need to locate the pool and the deck where it is. Why it is you need to locate the, I guess, we dropped the shed so it's really just the pool and the deck that's the subject of this application, why it is you have to locate them there. Why economically you couldn't have put them someplace else that would have required a smaller variance or no variance at all. Essentially,

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that gets to be an economic argument you have to say why would it be more expensive for you to put it someplace else. Aesthetics and your desire to maybe keep as much as your back yard up and shove it up against the back property line are not something this Board can consider. It has to be an economic argument why you need it to put it that way and it would have been uneconomic for you to locate it someplace else on the property, if it didn't need a variance or a smaller variance.

MRS. CUTI: I can understand with the pool but the house deck is right on -- that's what everybody said was the problem was the deck on the house more so than the pool.

MR. FENWICK: They only have 40 feet from the rear property line to the back of the house as it is so anything that they put on the back of the house would need a variance.

MR. LUCIA: Your required rear yard depth is 40 feet so the house already is at 40 feet from the back property line so theoretically, you could not put anything behind the house without getting a variance. That is the reason the house deck requires a variance of 14 feet 4 inches. The pool and the pool deck variance really are not required side yards so that is the reason the variance comes up on the pool and the pool deck side yard variance and you're asking for a variance for almost all of it, 8 feet 4 inches and rear yard the pool takes the whole 10 feet. So, they are fairly substantial variances you're looking for and as I say, the requirement this Board has to find practical difficulty and your proof of practical difficulty is the significant economic injury. You need to show why economically you could locate it elsewhere.

MR. FENWICK: You have got to act like it hasn't been put in yet, the fact that you have it there already does not establish economic hardship. It's got to be the reason why you would put it there.

MR. TORLEY: That fence line in the back that's not the property line because it looks like the pool is several feet off the fence line.

MRS. CUTI: That's not the property line.

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MR. FENWICK: Motion to set them up for a public hearing?

MR. FINNEGAN: So moved.

MR. TANNER: I'll second it.

ROLL CALL:

Mr. Torley	Aye
Mr. Finnegan	Aye
Mr. Tanner	Aye
Mr. Konkol	Aye
Mr. Fenwick	Aye

MR. FENWICK: This is the application and the forms and all your requirements or whatever.

MR. LUCIA: Also when you come back, I'd like you to bring with you a copy of the deed and your title policy. Does the Board need to see any more photographs or is this sufficient?

MR. FENWICK: They should be sufficient.

PUBLIC NOTICE OF HEARING BEFORE

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 29

Request of THOMAS CUTI

for a VARIANCE of

the regulations of the Zoning Local Law to
a) 8' 4" Side Yard Variance for an existing above
permit ground pool and pool deck and metal shed;
b) 10' Rear Yard Variance for the existing above ground
pool; and c) 14' 4" Rear Yard Variance for an existing deck
attached to our 1 family house.
being a VARIANCE of

Section 48-12-Table of Use/Bulk Regs., Cols. F & G

for property situated as follows:

510 MacNary Road, New Windsor, New York, known and designated
as tax map Section 73, Block 1, Lot 7

SAID HEARING will take place on the 28th day of
October, 1991, at the New Windsor Town Hall,
555 Union Avenue, New Windsor, N. Y. beginning at
7:30 o'clock P. M.

RICHARD FENWICK
Chairman

ZONING BOARD OF APPEALS
October 28, 1991

AGENDA:

7:30 p.m. - ROLL CALL

Motion to accept minutes of 9/23/91 as written.

PRELIMINARY MEETING:

1. NEW HILLTOP DEVELOPMENT CORP. - Request for two (2) signs (only one sign permitted in R-5 zone). Sign #1 requires 12 s.f. area and Sign #2 requires 32 s.f. area, together with 6 inch sign height variance for each sign. Present: Howard Goldfarb, Esq.
2. CONGREGATION AGUDAS ISRAEL - Request for 8 ft. chain link fence at cemetery located on Erie Avenue in R-4 zone (requires 10 ft. set back on side and rear-Sec. 48-14). Present: Hyman Slavin.
3. GARGUILO, MICHAEL - Request for 11,975 s.f. lot area variance to establish a buildable lot on east side of Toleman Road in an R-3 zone. Present: Robert Hansche, of Hansche Realty.

PUBLIC HEARING:

4. SNIDER, ALFRED - Public hearing continued pending input from Orange County Planning & Development.
5. SHEAFE, WAYLAND - Request for construction of warehouse for storage on NYS Rt. 207 in an R-1 zone.
6. CUTI, THOMAS - Request for (1) 8 ft. 4 in. side yard variance for pool/deck and metal shed, and (2) 10 ft. rear yard variance for pool and 14 ft. 4 in. rear yard variance for deck located at 510 MacNary Road in an R-4 zone.

*

*

*

RECEIVE AND FILE - Request from Charles W. Beck, Jr., representing DENHOFF DEVELOPMENT CORP., requesting an extension of variance granted to applicant on 1/28/91.

FORMAL DECISIONS: (1) KITCHEN
(2) WILLIAMS (SMALL TOWN LAND)

Pat - 563-4630 (o)
562-7107 (h)

Number 9110-113-0947
510 MACNARY ROAD
NEW WINDSOR, NEW YORK

CERTIFICATE FOR TITLE INSURANCE

Issued by

CHICAGO TITLE INSURANCE COMPANY

Chicago Title Insurance Company, a Missouri Corporation, herein called the Company, certifies to the Applicant named on the following page that an examination of title to premises described in Schedule A has been made in accordance with its usual procedure and agrees to issue the ALTA (10/21/87) Owner's or Lender's form of insurance policy as modified by the New York Coverage Endorsements or any other policy appearing in Schedule A of this certificate in the amount and for the transaction set forth herein and subject to the exclusions from coverage and the conditions and stipulations therein contained.

After the closing of the transaction, in conformance with the requirements and procedures of the Company, the Company will issue the policy and except (i) all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth in Schedule B herein that are not disposed of to the satisfaction of the Company prior to such closing or issuance of the policy (ii) any question or objection coming to the attention of the Company before the date of closing, or if there be no closing, before the issuance of the policy.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.

Issued by:
BARTECH ABSTRACT CORP.
1295 Allerton Avenue
Bronx, New York 10469
(212) 547-6300

CHICAGO TITLE INSURANCE COMPANY

Questions concerning the within Certificate
should be directed to: HERMAN LITROFF, ESQ.

Dated:

Certified by:

Authorized Signature

Redated:

by:

Authorized Signature

By:

ATTEST:

President

Secretary

This certificate is intended for lawyers only. Such exceptions as may be set forth herein may affect marketability of title. Your lawyer should be consulted before taking any action based upon the contents of this certificate. The Company's representative at the closing hereunder may not act as legal advisor to any of the parties or draw legal instruments for them. Such representative is permitted to be of assistance only to an attorney. It is advisable to have your attorney present at the closing.

TITLE #: 9110-113-0947

COPIES OF THIS REPORT HAVE BEEN SENT TO:

APPLICANT: DOROTHY J. MILIANTA, ESQ.
7-11 SOUTH BROADWAY
WHITE PLAINS, NEW YORK 10601
(914) 428-4200
FAX (914) 428-1241

SELLER'S
ATTORNEY: N/A

LENDER'S
ATTORNEY: MICHAEL R. DI TOMASSO, P.C.
1940 COMMERCE STREET
YORKTOWN HEIGHTS, NEW YORK 10598
(914) 245-8702

CC.: PHH U.S. MORTGAGE CORPORATION
55 HADDONFIELD ROAD WEST WING
CHERRY HILL, NEW JERSEY 08002
ATTN: CATHY SALVATICO
CLOSING DEPT.

Premises: 510 MACNARY ROAD, NEW WINDSOR
Section 73
Block 1
Lot 7

Buyer/Borrower: THOMAS CUTI and JOSEPHINE CUTI, his wife
Seller: N/A
Lender: PHH U.S. MORTGAGE CORPORATION

TITLE NO. 9110-113-0947

SCHEDULE A

1. Effective date: July 25, 1991
redated:
by:

redated:
by:

2. Policy or Policies to be issued:

(a) Owner's Policy, NYBTU, 100D \$

Proposed Insured:

(b) X Loan Policy, NYBTU, 100D \$64,000.00

Proposed Insured: PHH U.S. MORTGAGE CORPORATION,
ITS SUCCESSORS AND/OR ASSIGNS

(c) Policy \$

Proposed Insured:

3. Title to the fee simple estate or interest in the land described or referred to in this commitment as at the effective date hereof vested in:

THOMAS CUTI and JOSEPHINE CUTI, husband and wife,

who acquired title by deed dated 12/2/75, recorded 12/4/75 in Liber 2024 page 43 from INBRO DEVELOPMENT CORP.

4. The land referred to in this Commitment is described on the description sheet attached.

BARTECH ABSTRACT CORP.

TITLE NO. 9110-113-0947

DESCRIPTION

Section 73 Block 1 Lot 7 on the Tax Map of the Town of New Windsor,
Orange County.

ALL that certain lot, piece or parcel of land, situate, lying
and being in the Town of New Windsor, County of Orange and State
of New York, being shown and designated as Lot No. 7, Block C as
shown on a certain map entitled "Woodwind" (formerly MacNary) Town
of New Windsor, Orange County, New York, dated February 1972,
revised April 18, 1972 and filed in the Orange County Clerk's
Office on September 26, 1972 as Map No. 2869 (2 sheets).

SCHEDULE B

I. BLANKET POLICY

If the application is for insurance under a master of blanket policy all of the following items under this Schedule B will be excepted from coverage in the Certificate of Title Insurance to be issued hereon unless disposed of to the satisfaction of the Company on or prior to closing.

II. IDENTITY PARTIES

The identity of parties at the closing of this title should be established to the satisfaction of the closer.

III. SECTION 13 OF LIEN LAW

Deeds and mortgages must contain the covenant required by Section 13 of the Lien Law and such covenant must be absolute and not conditional. The covenant is not required in deeds from referees or other persons appointed by a court for the sole purpose of selling property.

IV. ASSIGNMENT OF MORTGAGE OR OTHER LIENS

When the transaction is an assignment of a mortgage or other lien, an estoppel certificate executed by the owner of the fee and by the holders of all subsequent encumbrances must be obtained. When the transaction is a mortgage, the amount actually advanced should be reported to the Company.

V. MATTERS AFTER EFFECTIVE DATE OF CERTIFICATE

Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by the Certificate.

VI. CORPORATE GRANTOR

If the present transaction consists in whole or in part of a conveyance or lease by a corporate grantor or lessor, there must be compliance with Section 909 of the Business Corporation Law. We will require the written consent to such conveyance or lease by all of the holders of the outstanding shares of the said corporation and the instrument on closing should so recite. In lieu thereof the consent of the holders of two-thirds of all of the outstanding shares entitled to vote thereon obtained at a meeting duly noticed and called for the purpose of obtaining such consent in the manner provided for in Section 605 of the Business Corporation Law is required and the instrument on closing should so recite.

If neither of the above is obtained, then, the proofs, showing the basis upon which the conveyance or lease is to be made must be submitted to counsel prior to closing.

VII. CORPORATE MORTGAGOR

If the present transaction consists in whole or in part of the making of a new mortgage there must be compliance with Section 911 of the Business Corporation Law. We will require a certified copy of the resolution of the board of directors of any corporate mortgagor authorizing the making of said mortgage.

Proof must also be shown that the consent of stockholders of the mortgagor corporation is not required by its certificate of incorporation or amendments thereto for the making of said mortgage.

The mortgage should contain a recital showing that it was made and executed pursuant to the resolution of the board of directors of the mortgagor.

VIII. CONTRACT

If this certificate requires a conveyance of the fee estate and the contract therefor has not been submitted to the Company, it should be furnished for consideration prior to closing.

IX. PROOF OF NO OTHER NAME

Proof is required to show that the persons certified as owners herein have not been known by any other name in the 10 years last past. If they have been known by another name, all searches must be amended and run against such name and title is subject to returns, if any, on such amended searches.

X. VAULT CHARGES

The lien of street vault charges, if any.

XI. ADMINISTRATIVE CODE

Liens pursuant to the Administrative Code of the City of New York may have attached and not been filed or recorded. No liability is assumed for same.

NOTE: Items X. and XI. will be reconsidered upon receipt of proof satisfactory to this Company as to what type of improvements are situated on the Premises as described herein.

XII. PERSONAL PROPERTY

Title to any personal property, whether the same be attached to or used in connection with the premises. (The policy to be issued will contain an exception as to this item without change or modification).

BARTECH ABSTRACT CORP.

TITLE NO. 9110-113-0947

Schedule B of the policy issued will contain the following exceptions, in addition to those noted elsewhere herein:

SCHEDULE B

The following estates, interests, defects, objections to title, liens, and incumbrances and other matters are excepted from the coverage of this policy.

1. Defects and incumbrances arising or becoming a lien after the date of this policy, except as herein provided.
2. Consequences of the exercise and enforcement or attempted enforcement of any governmental, war or police powers over the premises.
3. Any laws, regulations or ordinances (including, but not limited to zoning, building, and environmental protection) as to the use, occupancy, subdivision or improvement of the premises adopted or imposed by any governmental body, or the effect of any noncompliance with or any violation thereof.
4. Judgments against the insured or estates, interests, defects, objections, liens or incumbrances created, suffered, assumed or agreed to by or with the privity of the insured.
5. Title to any property beyond the lines of the premises, or title to areas within or rights or easements in any abutting streets, roads, avenues, lanes, ways or waterways, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement, unless this policy specifically provides that such title, rights, or easements are insured. Notwithstanding any provisions in this paragraph to the contrary, this policy, unless otherwise excepted, insures the ordinary rights of access and egress belonging to abutting owners.
6. Title to any personal property, whether the same be attached to or used in connection with said premises or otherwise.

7. Mortgages returned and set forth herein (ONE).

8. Easement and Right of Way recited in Deed dated 11/6/44, recorded 11/8/44 in Liber 945 page 11 and in Deed dated 10/30/50, recorded 12/2/55 in Liber 1370 page 342 and Liber 1007 page 14: "...together with the right of ingress and egress at all times over a lane or roadway leading from the public highway being a 50-foot right of way extended to Little Britain Road".

9. Right of Way and Easement recited in Liber 1071 page 1, Liber 1103 page 122, Liber 1136 page 210 and Liber 1370 page 342.

10. Gas Transmission Grant dated 7/15/49, recorded 9/26/49 in Liber 1136 page 210, recited in Liber 1149 page 92, Liber 1341 page 258, Liber 1427 page 346 and Liber 1551 page 480.

11. Conveyance to the County of Orange dated 11/19/57, recorded 11/22/57 in Liber 1447 page 182.

12. The Rights of Way and Easements have been excepted and reserved in the prior Deeds of record.

13. Easement to the Central Hudson Gas & Electric Corp. dated 6/8/67, recorded 6/15/67 in Liber 1769 page 991, repeated in Liber 1769 page 992 - affects streets with the right to trim, cut and remove trees.

FOR MORTGAGE POLICY ONLY:

Policy will insure that the exercise of any rights under the aforesaid easements will not prohibit the use and occupancy of the dwelling erected on the premises described in Schedule "A" herein.

14. Policy insures access, ingress and egress over MacNary Road, 30 feet wide, to the nearest public highway.

15. Offer of Dedication of MacNary Road to the Town of New Windsor in Deed dated 2/22/72, recorded 3/9/72 in Liber 1900 page 784.

16. Easement and Right of Way to the New York Telephone Company and to the Central Hudson Gas & Electric Corp. dated 12/4/72, recorded 1/19/73 in Liber 1931 page 664, repeated in Liber 1937 page 549 - affects streets with the right to cut, trim and remove trees and obstructions.

FOR MORTGAGE POLICY ONLY:

Policy will insure that the exercise of any rights under the aforesaid easements will not prohibit the use and occupancy of the dwelling erected on the premises described in Schedule "A" herein.

17. Dedication of Streets to the Town of New Windsor dated 2/6/75, recorded 2/24/75 in Liber 2001 page 429 on Map No. 2869.

18. NOTE: The Orange County Clerk's Office requires that all recorded instruments contain the addresses and correct tax map designation of the described premises.

19. Possession of the insured premises must be delivered on closing. On failure to deliver possession on closing, policy will except rights of persons in possession.

20. The contract of sale covering the present transaction must be submitted prior to the closing.

21. Proof is required that the following named person has not been known by any other married or maiden name within the last ten years.

Name: JOSEPHINE CUTI

22. Proof is required that the person(s) executing the closing instrument is (are) the same person(s) as the grantee(s) in deed dated 12/2/75 recorded 12/4/75 in Liber 2024 page 43.

23. This report has been prepared for the purpose of insuring a normal mortgage transaction. In the event that the proposed mortgage to be insured is a collateral mortgage, or a mortgage for an antecedent debt, this Company must be informed so that the proper exceptions relative to such mortgage transactions may be raised.

24. An affidavit of the owner in possession is required setting forth that since the date of his acquisition of title or the date of his possession of title, whichever is earlier, no claim has been asserted of any right in our title to the premises, nor of any encumbrance or lien on the premises, nor of any defect in the title or interest therein to be insured by the policy, and covered by appropriate exception therein, and the owner in possession has no knowledge of any such claim, right, lien, encumbrance or defect in title.

25. Rights of tenants, if any.

26. FOR INFORMATION ONLY:

Although the Company will use its best efforts to record instruments promptly, no liability is assumed for penalties and interest under Section 1416 of the Tax Law due to the inability to file transfer tax returns or pay transfer taxes within the time required.

27. Searches have been run against the name(s) of the proposed purchaser(s)/mortgagor(s) THOMAS CUTI and JOSEPHINE CUTI and returns, if any, appear herein.

Title No. 9110-113-0947

AMENDED SURVEY READING

Survey made by Robert E. Baker, L.S., dated September 4, 1975, shows a parcel of real property improved with a dwelling. Improvement within lines of record title.

Inspection dated August 22, 1991 shows above-ground pool with raised deck added to rear yard of premises, deck attached to rear of dwelling, metal shed added East of westerly line of title and blacktop driveway from front of dwelling to McNary Road. Variations between chain link fence and westerly, northerly and easterly lines of record title.

No other changes, no other variations.

BARTECH ABSTRACT CORP.

Title No. 9110-113-0947

MORTGAGES

1.

Mortgagor **INBRO DEVELOPMENT CORP.**

Mortgagee **HERITAGE SAVINGS BANK**

Amount **\$28,900.00**

Dated **9/23/75**

Recorded **9/25/75**

Liber **1682**

Page **999**

Tax Paid **\$191.75**

Which mortgage was Extended and Modified by Agreement between **THOMAS CUTI** and **JOSEPHINE CUTI** dated 12/2/75, recorded 12/4/75 in Liber 2024 page 45.

This commitment does not purport to show all the terms and provisions of the above mortgage(s). Interested parties should communicate with the holder(s) thereof to consider the terms thereof, the obligation(s) secured and the effect of any unrecorded agreements in modification thereof.

ORANGE COUNTY TAX SEARCH

DATE: 07/25/91

TITLE #9110-113-0947

PREMISES: 510 MACNARY ROAD

TOWN: NEW WINDSOR

VILLAGE:

ASSESSED OWNER: THOMAS A. & JOSEPHINE M. CUTI

ASSESSED VALUE:

SD: NEWBURGH

SEC: 73

BLK: 1

LOT: 7

RETURNS

1991 STATE, COUNTY & TOWN TAX \$1,701.22

PAID 1/91

1990/91 SCHOOL TAX

\$1,743.14

PAID 3/21/91